

PUBLISHED UNDER THE DIRECTION OF
THE POOR LAW MEDICAL OFFICERS' ASSOCIATION

THE LAW
RELATING TO
POOR-LAW MEDICAL OFFICERS
AND VACCINATION

GREENWOOD

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THE LAW RELATING TO
THE POOR LAW MEDICAL SERVICE
AND VACCINATION

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AND
VACCINATION

BY
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PUBLISHED UNDER THE DIRECTION OF
The Poor Law Medical Officers' Association of England
and Wales

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CONTENTS

PREFACE	-	-	-	-	-	-	PAGE vii
---------	---	---	---	---	---	---	-------------

PART I

THE LAW RELATING TO POOR LAW MEDICAL SERVICE	11
--	----

PART II

THE LAW OF VACCINATION	-	-	-	32
------------------------	---	---	---	----

APPENDIX A

NOTES ON THE LOCAL GOVERNMENT BOARD ORDERS AND CASES CONNECTED THEREWITH	-	-	56
---	---	---	----

APPENDIX B

POOR LAW MEDICAL OFFICERS AND THE LUNACY LAW	-	-	-	-	-	-	61
---	---	---	---	---	---	---	----

APPENDIX C

	PAGE
FORMS OF CONTRACT OF PUBLIC VACCINATOR, AND OF VACCINATION CONTRACT WITH THE MEDICAL OFFICER OF A WORKHOUSE—OPINION OF SIR ROBERT REID, K.C., <i>RE</i> POSITION OF PUBLIC VACCINATORS UNDER THE SUPERANNUATION ACT OF 1896—CIRCULAR OF ASSOCIATION OF PUBLIC VACCINATORS - - - - -	64
INDEX - - - - -	90

PREFACE

IN publishing this small handbook, the Council of the Poor Law Medical Officers' Association hope to provide for a want which it is believed has been long felt throughout the country. Letters have been frequently received by the Hon. Secretary from Poor Law Medical Officers, asking questions as to the duties of their office, and for information on many points with which all members of the service should be familiar.

The Council consider this is due to the absence of any book of suitable dimensions, which can be easily consulted. Practically, reliable information can be only obtained from Glenn's *Poor Law Orders*, a bulky volume which contains the necessary knowledge scattered over some thousand pages of matter, most of which is altogether ex-

traneous to the wants of the medical officer. This *manual*, moreover, is a very expensive book, and seldom seen anywhere except in a public office or library.

The only other books dealing with this subject are Glenn's manual of the *Laws affecting Medical Men*, the latest edition of which was published in 1871, and Craven and Coppock's *Law relating to the Medical Practitioner in England*, published in 1890.

Although much of the chapter in the former on 'Medical Officers of Parishes and Unions' is still useful reading, there have been important General Orders of the Local Government Board since that date, and a statutory system of superannuation has been established. The Law of Vaccination also has been revolutionized.

What is said about Glenn applies likewise to Craven and Coppock. The latter is a useful little book, and gives much interesting and valuable information, but cannot claim in any sense to be up-to-date, although distinctly in advance of Glenn in this respect.

The present handbook does not claim to be so minute in some respects as either of the

above-mentioned works, but its object is to supply information necessary for the Poor Law Medical Officer and Public Vaccinator, respecting the laws and regulations under which they hold office, brought up to the present time.

The reader both of Glenn and Craven and Coppock will, perhaps, at times wish that the writers had had some personal acquaintance with the exigencies of the medical practitioner. In that case the arrangement of their books might have been conveniently altered, and portions omitted which only remotely concern the profession.

Dr. Sheen of Cardiff has also published a useful little book entitled *The Workhouse and its Medical Officer*, but this, again, only partially deals with the subject.

The author of this handbook can claim twenty-five years' experience in the practice of Medicine, during the greater part of which he has been intimately associated with Poor Law medical work.

In conclusion, the author desires to express his thanks to Mr. D. B. Balding, the Chairman of the Council of the Poor Law Medical

Officers' Association, for his kind assistance, as also to Dr. Norton, Medical Superintendent of the Shoreditch Infirmary, Dr. A. E. Cope, Hon. Secretary of the Association of Public Vaccinators, and to Mr. Frank Greenwood, of the firm of Beckingsale, Greenwood, Tucker and Cross, the Solicitors to the Poor Law Medical Officers' Association.

I, DR. JOHNSON'S BUILDINGS,
MITRE COURT,
TEMPLE, E.C.,
February 28, 1901.

THE LAW RELATING TO THE POOR LAW MEDICAL SERVICE AND VACCINATION

PART I

MEDICAL PRACTITIONERS AND THE POOR LAW

BY 43 *Eliz.*, c. 2, 1601, direct Poor Law legislation originated in this country, and that statute was the parent of the numerous enactments now to be found dealing with this subject. But it was not until long after the establishment of Poor Laws that our profession became mixed up with them officially.

Owing to the growing necessity of organizing some system for relieving the medical needs of the sick poor, about the latter end of the eighteenth century it became customary for parochial authorities to contract with surgeons and apothecaries. For a considerable time these contracts were similar in

Origin of
Poor Law
legislation.

Early con-
tracts with
medical
practi-
tioners.

character to those entered into with tradesmen, and it was not till the nineteenth century was well commenced that anything like a Poor Law Medical Service could be said to exist.

Appoint-
ment of
Poor Law
Commis-
sioners.

The present system has grown up since the passing of the *Poor Law Amendment Act*, 1834 (4 & 5 *Wm. IV.*, c. 176). By that enactment three Commissioners—Poor Law Commissioners—were appointed, with power to make rules binding on all bodies dealing with the care of the destitute poor, and the duty was imposed on them to superintend the carrying out of the various Poor Law Orders by the parochial authorities and Guardians of the poor throughout England and Wales.

Origin of
Local
Govern-
ment
Board.

In 1847, by 10 & 11 *Vict.*, c. 109, a Poor Law Board was established, the members of which were known as ‘Commissioners for administering the laws for the poor,’ and finally, by 34 & 35 *Vict.*, c. 70, the present Local Government Board was constituted.

Poor Law
legisla-
tion by
General
Orders.

The various Boards from time to time have issued *Orders* under statutory authority, and at the present time the Poor Law Medical Service is governed for the most part by the *General Order (Consolidated) of July 24, 1847*, with other supplementary and amending Orders issued from time to time since that date.

In these Orders are laid down authorita-

tively the regulations that govern the Poor Law Medical Service as regards the—

1. *Appointment,*
2. *Qualification,*
3. *Remuneration,*
4. *Duties,*
5. *Suspension,*
6. *Dismissal,*

of the Medical Officer.

There are two kinds of Medical Officers known in the Poor Law Medical Service—

Two kinds of Poor Law Medical Officers.

(a) *District Medical Officer.*

(b) *Workhouse Medical Officer.*

1. *Appointment.*—He must be appointed by a majority of the Guardians present at a meeting.

Appointment by majority of Guardians.

A notice also that such an election is to take place must have been given at one of the two ordinary meetings next before the one at which the election is made, or an advertisement must have been published in a newspaper not less than seven days preceding the day of election. The result of the election must be communicated at once to the Local Government Board, and is subject to its approval.

Preliminaries to election of Medical Officers.

No area can be lawfully assigned to a District Medical Officer exceeding in extent the area of 15,000 acres, or with a population

Area that may be assigned to District Medical Officer.

of more than 15,000, unless with the special consent of the Local Government Board.

Changes
may be
made in
district of
Medical
Officer.

The Guardians may also make changes in the extent of the Medical Officer's district from time to time, with the consent of the Local Government Board, and if the Medical Officer refuse his assent, the Guardians *may determine his office* by six months' notice (*General Order, May 25, 1857*). The Medical Officer is also required to give a month's notice on resigning his appointment, or to forfeit one month's salary.

Immediately after his appointment the District Medical Officer should name some lawfully-qualified practitioner to act as his deputy. The latter must be recognised by the Local Government Board, but that body will hold the District Medical Officer responsible for the skill and diligence of his deputy, and the District Medical Officer should always give notice to the Clerk to the Guardians when about to absent himself from his duties.

Qualifica-
tions of
District
Medical
Officer.

2. *Qualification.* — The only qualification now necessary is that the Medical Officer be *registered* under the Medical Act of 1886, if registered since that date ; if before that date, his registered qualification must entitle him to practise *medicine and surgery* (*Medical Officers' Order, December 10, 1859, Art. I.*). It is also necessary that he be *resident* within his district, or become so *within two months* of his appointment.

Must re-
side within
his district.

Where the District Medical Officer is not resident within his district, he may yet be appointed *sub modo*; but the Guardians are required to make a *special minute* as to the reason for his election, and to transmit it to the Local Government Board for approval. That Board usually sanctions the appointment for periods of *three* years, but in many parts of the country it is customary for them to elect the District Medical Officer *annually*, when he is not resident in the district.

Where he does not so reside.

Where a District Medical Officer, who is not resident in his district when appointed, afterwards becomes resident, the Guardians, after the same notice has been given as in the case where the appointment has become vacant, may pass a resolution empowering the Medical Officer to hold office in the same way as if regularly appointed. A copy of this must be submitted to the Local Government Board, and on its sanction the officer is entitled to hold office accordingly.

By an *Order dated July 14, 1880*, all Metropolitan Boards of Guardians may dispense with the condition as to residence of the District Medical Officer within his district, provided that the consent of the Local Government Board has been previously obtained. In such a case the Medical Officer holds his office on the same terms as if resident within his district.

Special regulation as to non-residence in Metropolitan area.

3. *Remuneration*.—This consists of any salary that is fixed by the Board of Guardians with the consent of the Local Government Board, and special fees under Arts. 177 and 182 of the *General Order of July 24, 1847*.

The latter are :

Special
fees
allowed by
the Local
Govern-
ment
Board.

1. Treatment of compound fracture of the thigh, £5.

2. Treatment of compound fractures or compound dislocation of the leg, £5.

3. Amputation of leg, arm, foot, or hand, £5.

4. The operation for strangulated hernia, £5.

5. Treatment of simple fractures or simple dislocation of the thigh or leg, £3.

6. Amputation of a finger or toe, £2.

7. Treatment of dislocations or fractures of the arm, £1.

(The above rates include payment for surgical apparatus and splints.)

Moiety
only of fee
where
patient
dies.

In cases of operation, where the patients have not survived thirty-six hours, unless the surgeon has been required to attend several times, he shall only be entitled to *half* the fee.

Before am-
putation a
consultant
must be
called in.

In all cases of amputation, unless the operation is one of urgency, the surgeon will be unable to claim any fee, unless he first obtain, at his own cost, the advice of a registered medical practitioner that such operation is necessary.

For attendance on a case of midwifery, where a lawful order has been given, a District Medical Officer is entitled to a fee of not less than 10s., and not more than 20s., unless the case has been of unusual difficulty, when he can claim £2. Under the latter category are included cases of *forceps*, *turning* and *arm presentations*, and also prolonged after-attendance, as in *puerperal fever*, *phlegmasia dolens*, and *suppuration of the breasts*. The attendance on the confinement must be at the birth, or immediately after, and the child must be *viable*—that is, more than *seven months*.

Extra fees
in mid-
wifery
cases.

It is to be noted that the increased fee for difficult midwifery cases is only payable to *District Medical Officers*, but the payments for ordinary midwifery cases can be claimed by *Workhouse Medical Officers*.* The former officers likewise are alone entitled to the special fees for surgical operations.

May be
claimed
by Work-
house
Medical
Officers.

Where surgical operations are required for which no fee is laid down by the Local Government Board, it is necessary for the District Medical Officer to come to an arrangement with his Board as to the fee to be paid, and

Arrange-
ment to be
come to
with
Board of
Guardians
for special
operations.

* I am informed by an experienced Infirmary Medical Officer that these fees cannot be procured by him, but *Article 182 of General Order of July 24, 1847*, would seem to be clear on this point, so that a distinction is made between Workhouse and Infirmary Medical Officers in this respect.

Where several operations are done at same time only highest fee can be claimed.

the Local Government Board will sanction any reasonable fee. If several of the fees specified become payable with respect to the same person at the same time, the Medical Officer shall be entitled to only *one*, but he may choose the *highest*, if the fees are of unequal value.

A few Unions have been suspended from the operation of the above Articles by special sanction of the Local Government Board.

Employment of District Medical Officer to make sanitary report.

By 23, 24 *Vict.*, c. 77, s. 14, the Guardians of a Union are authorized to employ their District Medical Officers to make a report as to the sanitary state of the Union, or Parish, and for such service may pay them reasonable remuneration out of the common fund.

Employment on board ship.

When, under regulations made by the Privy Council, the District Medical Officer is called upon to attend patients on board a ship lying in a harbour, he is entitled to recover from the captain, on behalf of the owners, reasonable remuneration,* and when the charges are not over £20 in value, payment may be summarily ordered by justices at the place where the claim arose, as in the case of seamen's wages (18, 19 *Vict.*, c. 116, s. 12).

Likewise, when he is in attendance upon a

* S. 138 of *Public Health Act*, 1875, lays down that the District Medical Officer 'shall be entitled to charge extra at the general rate of allowance for services for the Union, or place for which he is appointed.'

pauper suffering from small-pox, and vaccinates any person or persons resident in the same house who have never been vaccinated, nor had small-pox, or re-vaccinates such person or persons, he shall be entitled to *the same fee as the Public Vaccinator would be entitled to*, on application to the Guardians.

May vaccinate pauper patients where small-pox is present in house.

4. *Duties*.—These are set down in Arts. 205, 206, and 207 of the same Order with subsequent amendments.

District Medical Officer.—He must attend duly and punctually upon all poor persons requiring medical attendance within the district assigned to him, and, according to his agreement, supply requisite medicines, whenever he may be lawfully required to furnish attendance or medicines by a written or printed order of the *Board of Guardians*, or of a *Relieving Officer* of the Union, or of an *Overseer* of a Parish. The latter officer may only give orders in cases of urgency, but if the District Medical Officer disregards the order, the *onus* will lie on him to show that the case was *not* urgent.

Must attend on written orders, and supply medicines, etc.

Dental surgery may be demanded of the Medical Officer, but only to the extent of *extraction of diseased teeth*.

Amount of dental surgery required.

With regard to midwifery, the Medical Officer may not employ a midwife in his place. If a midwife is employed, it must be by the Guardians themselves.

May not employ a midwife.

In ‘*requisite medicines*’ are included necessary *medical and surgical appliances*, but the Poor Law Board by a Circular dated April 12, 1865, ordered that *cod-liver-oil* and other expensive medicines should be provided by the Guardians.

Establish-
ment of
dispen-
saries in
Metro-
polis.

By the *Metropolitan Dispensary Order* of 1871, the duty of supplying medicine and medical and surgical appliances was shifted from the Medical Officer in the Metropolitan area to the Guardians.

The District Medical Officer is bound to attend any person for whom a lawful order has been issued, even if he believes that such order has been given improperly; his only remedy is to bring the matter to the notice of the Guardians at their next meeting. Without an order he is not bound to attend, and is not legally responsible for anything that may happen in consequence of a non-attendance; but the Medical Officer will often exercise a wise discretion in attending without an order, when he has reason to believe that the case is one of urgency, and the applicant a pauper, resident within his district.

Should
attend at
times with-
out order.

Liability
of Over-
seer.

It was decided in *Wills v. Smith* (a County Court case) that an Overseer who had improperly granted an order incurred no personal liability to the Medical Officer who had attended in consequence of the same.

The District Medical Officer has no power to

order for his pauper patients anything except *medicines* or *medical appliances*, where these are supplied by the Guardians; he can only recommend the Relieving Officer to furnish other requirements by certifying such to be necessary.

May only order medicines.

In cases where a ticket has been issued by the Guardians to permanent paupers, the Medical Officer is bound to attend on the presentation of this ticket in the same way as on that of a more formal order. He must also keep a careful register of his attendances on pauper patients in the form laid down by the Local Government Board.

Regulations as to permanent paupers.

The District Medical Officer is also required to visit pauper lunatics, not in an institution for the reception of the insane, once every three months if within his district, and for each visit can claim a fee of half a crown (*Lunacy Act*, 1890).

Under 53 *Vict.*, c. 5, the District Medical Officer is required to give notice to the Relieving Officer or Overseer, if it comes to his knowledge that there is a lunatic at large within his district. Under 38-39 *Vict.*, c. 55, s. 286, the Local Government Board may assign to the District Medical Officer of any Union the duty of rendering local assistance to the Medical Officer of Health of a united district, and 'such District Medical Officer shall receive, in respect of any duties so assigned

him, such additional remuneration, to be paid by the Local Authority, as they with the approval of the Local Government Board may determine.'

Must attend when sent for by Master or Matron.

Workhouse Medical Officer. — He must attend at the workhouse at the times fixed by the Guardians, and, whenever sent for by the Master or Matron, must duly and punctually attend on all poor persons in the workhouse requiring medical assistance, and supply requisite medicines where these are not supplied by the Guardians.

Must examine paupers on admission.

It is his duty also to examine paupers on their admission, and to give necessary directions concerning them to the Master and Matron, and to make suggestions as to their diet, classification, and treatment, and to report to the Relieving Officer those of unsound mind who ought to be sent to an asylum.

Must give instructions as to diet and treatment of children. Should not vaccinate except with consent of mother. Must report any defect in drainage, diet, etc.

He is also to give instructions as to the diet and treatment of children, and women suckling children, and to vaccinate such children as require vaccination; but he should not vaccinate *without the consent of the mother*, except under urgent circumstances.

It is his duty to report to the Guardians in writing any defect in diet, drainage, ventilation, or excess in numbers of any class in the workhouse, and also any defects in the arrangements of the infirmary, or in the performance of their duties by the nurses of the

sick. He must also make a return, in the form ordered by the Local Government Board, of his attendances at the workhouse at the ordinary meetings of the Board, and enter in such return the death of any paupers dying in the workhouse, together with the apparent cause of death.

Must make returns on forms ordered by Local Government Board.

By a *General Order dated April 4, 1868*, the Medical Officer is required to make the before-mentioned report in the Workhouse Medical Officer's Report-book.

He is also required to keep bed - cards, upon which to order diet and medicine for sick inmates; also to report certain deaths to the Local Government Board, and to make a half-yearly statement in reply to certain questions set out, as to the condition of the workhouse in the specified particulars. By an *Order dated August 24, 1869*, this statement is to be made to the Guardians, and is to be incorporated with the Medical Officer's Report-book.

Must report certain deaths to Local Government Board.

The duties of the Workhouse Medical Officer as to the classification and dietary of inmates are greatly modified by a *General Order of October 10, 1900 (Workhouse Regulation—Dietaries and Accounts)*.

Duties as to classification modified by General Order, October 10, 1900.

The duties of Workhouse Medical Officers are further defined and limited in various *Circular Letters* and *Memoranda* as to the *Examination of Lunatics*, the keeping of

Duties
under
Lunacy
Acts.

records as to lunatic patients, the treatment of new-born infants in respect of *Ophthalmia*, the bathing of inmates, the care of idiots and persons of unsound mind, the making of post-mortems, etc. He has also well-defined duties under the *Lunacy Acts*, and is required to keep a *Mechanical Restraint Register*.

Death of
lunatics
must be
reported to
Coroner.

It has been held that the deaths of lunatics in workhouses need not be reported to the Coroner under the *Lunacy Acts*, a workhouse not being an 'institution for lunatics.' The Local Government Board, however, by a *General Order dated November 3, 1900*, have required such deaths to be reported to the Coroner with certain particulars.

To report
sudden
and acci-
dental
deaths.

Under an *Order dated April 4, 1868*, *Art. 4*, every sudden or accidental death must be reported to the Local Government Board within twenty-four hours.

Work-
house
Medical
Officer and
Infirmary
Medical
Super-
intendent.

By a *General Order for the Government of Infirmarys, distinct from the Workhouses of the Parishes of St. Mary Abbots, Kensington, and St. Leonard, Shoreditch, dated June 24, 1872*, and various other Orders and Regulations, the management of infirmarys, separate from workhouses, has been regulated, and the duties of the Medical Superintendents of such institutions have been laid down. The Infirmary Medical Superintendent may be defined as a Resident Workhouse Medical Officer, to whose duties are added those of

the entire control, administration, and management of the institution of which he has charge. The appointment of a House Superintendent and a Resident Medical Officer has not been found to work successfully in practice.

The duties of a Medical Superintendent of a large separate infirmary obviously involve much beyond ordinary medical work, especially as the infirmaries are used almost invariably as training schools for nurses. If the insane wards of the Union, or Parish, are situated in the infirmary, the Medical Superintendent becomes the *detaining authority* in cases under the *Lunacy Acts*, and orders for detention are made upon him, instead of upon the Master of the Workhouse.

Detaining
authority
under the
Lunacy
Acts.

Some of the modern Poor Law infirmaries compare favourably in construction and arrangement with the older general hospitals.

Under the Local Government Board's *Order of February 12, 1879*, it is incumbent on all District and Workhouse Medical Officers appointed since February 28 of that year to furnish the Medical Officer of Health of the district with returns of pauper sickness and deaths, as well as to notify the outbreak of infectious disease, although the latter requirement is now governed by the *Infectious Diseases Notification Act, 1889*.

District
Medical
Officer to
furnish
returns of
sickness
and deaths
to Medical
Officer of
Health, if
required.

Both District and Workhouse Medical Officers are required, when asked, to give

To give
certificates
as to
pauper
patients.

any reasonable information respecting a pauper who is, or has been, under their care, and to make any written report* relative to the sickness of paupers, as the Guardians or Local Government Board may require, and to attend any meeting of the Board of Guardians when required.

To attend the meetings of the Board.

Board may suspend Medical Officer.

5. *Suspension*.—By *Art. 192* of the *General Order of July 24, 1847*, the Guardians may suspend the Medical Officer, but they must immediately notify the cause of the suspension to the Local Government Board, who if it thinks fit may remove such suspension.

May not dismiss Medical Officer.

6. *Dismissal—Workhouse Medical Officer*.—Every Medical Officer duly qualified according to the requirements of the Local Government Board then in force at time of his appointment shall hold office till he die, or resign, or be proved to be insane, or become legally disqualified to hold such office, or be removed by the Local Government Board.

Tenure of District Medical Officer.

District Medical Officer.—Every Medical Officer duly qualified as aforesaid, at the time of his appointment, and then being, or within two months after his appointment becoming, resident within the district for which he shall be appointed to act, shall hold office until he shall die, or resign, or be

* Certificates can only be required by the *Guardians* of their Medical Officers for their own purposes. Other Boards—*e.g.*, School Boards—cannot demand them.

proved of unsound mind, or become legally disqualified for such office, or be removed by the Local Government Board.

It will be seen that Poor Law Medical Officers are protected in their office so long as they conduct themselves properly, and carry out their duties efficiently. It must not be forgotten, however, that this security of tenure is altogether at the *discretion of the Local Government Board*. The Guardians can call for the resignation of the Medical Officer on almost any pretext, provided they get the assent of the Local Government Board to their action.

That Board mostly protects the Medical Officer, but there have been one or two cases in which he has experienced harsh treatment at its hands. Not long ago the Fulham Board of Guardians required the resignation of one of their District Medical Officers, with the approval of the upper Board, because he had been a nominal co-respondent in a divorce suit.

Frequent disagreement with the Guardians, also, may unsettle the tenure of his office, for if complaints are constantly made against a Medical Officer, although on petty grounds, the Local Government Board sometimes requires his resignation because of inability to work smoothly with his Board of Guardians.

7. *Superannuation*.—By the *Poor Law Officers' Superannuation Act*, 1896 (59-60 Vict., c. 50) all Poor Law Officers are required to

Tenure at discretion of Local Government Board.

Harsh treatment of District Medical Officer at Fulham.

District Medical Officer must work smoothly with his Board.

Superannuation of District Medical Officer.

permit a certain deduction from their salaries, and are entitled to superannuation on a fixed scale. Those appointed before the passing of the Act were given the option of exempting themselves from its provisions, provided that option were exercised *within three months*. To be able to claim the full superannuation allowance, a Medical Officer must have completed *forty years' service*, and be *over sixty years of age*; or have reached the *age of sixty-five*, when if he has *served ten years, and less than eleven*, he is entitled to *ten-sixtieths* of his *average salary during the last five years*, and there is an additional one-sixtieth for every year above ten years up to forty years, when the maximum of forty-sixtieths is reached. The deduction from salary, where the appointment was made since August, 1896, is 2 per cent.

Public
Vacci-
nators not
Poor Law
Officers.

If the appointment is terminated by the Guardians for any other cause than misconduct, the deductions must be refunded. For the purposes of this Act, *Public Vaccinators are not Poor Law Officers*.

Defects in
Super-
annuation
Act.

Some grave defects exist in the Poor Law Officers' Superannuation Act which require amendment. The chief of them is the arrangement under the Act whereby the deductions from the salaries of Poor Law Officers are paid solely to the funds of the Union to which they are attached.

The result is that each Union has the strongest inducement to treat their officers harshly in their superannuation claims, as by so doing they keep down the local rates. Hence there is a tendency on the part of Boards of Guardians to avail themselves of any pretext to get rid of old officers, when the time for superannuation draws nigh, as it may be cheaper to return the deductions from salary than to superannuate them.

It also results that Poor Law Officers who have lost their posts, are at a great disadvantage in getting others especially if they have held the former for many years, and their time for retirement has become relatively nearer.

Country Poor Law Medical Officers are much more prone to be affected by this injustice than their Metropolitan brethren : because in many places it is impossible for the District Medical Officer to reside within the limits of his district, and he is therefore subject to re-election annually or triennially—more often the former. At any of these re-elections it is always open for the Guardians to pass him over in favour of another candidate.

Such instability of tenure specially lends itself to assist the policy of those Boards which determine at all hazards to reduce the local rates, regardless of what injustice they may do their officers. Were there a Central Fund, it would remove any incentive on the

Want of a
Central
Fund.

part of Boards of Guardians to act in this manner. As the money for their officer would be paid out of that fund, his superannuation would not affect the local rate perceptibly, and Boards would not be so anxious to prevent superannuation. Aged officers would be got rid of equitably, to the advantage of the public service, and the accumulations in the Central Fund, after a few years, would probably meet all demands.

Before closing this subject, it will be well to draw attention to one point in particular. It should never be forgotten that a medical man, *qua* Poor Law official, incurs much greater responsibility towards his *pauper* than towards his *private patients*.

Freedom
of contract
between
doctors
and private
patients.

The law lays down no obligation on a medical practitioner to attend professionally on a member of the public who chooses to demand his aid, even when the latter is willing to pay for his services at his own rate. There is perfect freedom between a practitioner and his patient in this respect. If the former declines to attend, the latter must seek another doctor, however difficult it may be to find one.

Otherwise
with
pauper
patients.
Serious
liability
for neglect
of pauper
patient.

But it is otherwise in the case of a pauper patient. In that case, *ex hypothesi*, there is no other doctor available, and neglect to attend, when legally summoned, may be fraught with the most serious consequences.

Some years ago, in one of the country districts, an order was given for attendance on a pauper, and, although summoned more than a dozen times, the parish doctor never attended. The patient died without medical aid, and the doctor was convicted of manslaughter at one of the assizes. I regret that I cannot cite the case, but I am pretty sure of the accuracy of the facts.

It may be well, therefore, for a District Medical Officer to remember that, although neglect of a patient is at all times a serious professional offence, neglect of a pauper is something more. If only regardful of his own welfare, he will do well to neglect his richest private patient rather than a pauper. In the one case, his loss will probably be only pecuniary ; in the other, it may mean loss of everything.

Both public and professional feeling fully indorses this state of things. Wanton neglect of poor sufferers, who have none to succour them but the parish doctor, must always appear a heinous offence to all humane persons, and to none more so than to the officials of the Poor Law Medical Service throughout the country, who perform their arduous duties with so much credit to their profession, in spite of the ingratitude and injustice often meted out to them by those in authority.

PART II

THE LAW OF VACCINATION

AFTER the discoveries of Dr. Jenner at the end of the eighteenth century, which were soon extended and improved upon by other investigators, it began to be recognised by the public that in vaccination might be found the most effectual protection yet known against small-pox.

At first the principles of vaccination were chiefly promoted by private benevolence, assisted by the State. Charitable people subsidized institutions, which offered to vaccinate gratuitously all applicants, and as early as 1808 the National Vaccine Establishment was founded.

Origin of
vaccina-
tion legis-
lation.

The first of the Vaccination Acts was passed in 1840, and by one of its clauses inoculation with variolous matter was made a penal offence. By this enactment the expense of vaccination was thrown upon the rates. The first compulsory Act was in 1853, and it was entrusted to the Boards of Guardians throughout the country to

superintend the carrying out of the provisions of the law.

In 1867 a new Act was passed, which enlarged the scope of the previous Act, and in 1871 legislation on this subject was further amplified by the enactment of that year, which ordered the appointment of Vaccination Officers. No further legislation of importance followed till 1898, when by 61, 62 *Vict.*, *c.* 49, vaccination was practically made non-compulsory, by permitting parents or guardians having a *conscientious* objection to evade its operation by satisfying a magistrate that they honestly held such objection.

Conscientious objection admitted.

The Act of 1867 (30, 31 *Vict.*, *c.* 84) is the chief enactment on this subject. Although it has in some important respects been superseded by the Act of 1898, there is embodied in it nearly all the machinery at present in use throughout the country to obtain as high a standard of vaccination among the population as is possible.

Establishment of present system of public vaccination.

The following was shortly the scheme of the Act :

The whole country was parcelled out into districts (*Sec.* 2), the Poor Law divisions being mostly taken, and a Public Vaccinator engaged for each (*Sec.* 3). The Guardians were made the Authorities under the Act, and were required to contract with a regis-

Contracts between Guardians and medical practitioner.

Qualifica-
tions of
Public
Vaccina-
tors.

tered medical practitioner to act as Public Vaccinator; but the contracts had in all cases to be sanctioned by the Poor Law Board (now Local Government Board). The qualifications for a Public Vaccinator were those laid down by the *Order of the Privy Council* dated December 1, 1859, viz., the qualifications required of a district Medical Officer together with a *certificate of proficiency in vaccination given by a Public Vaccinator authorized by the Privy Council to act for this purpose*.

After 1860, therefore, it became necessary for all practitioners holding the position of Public Vaccinator to possess one of these certificates.

But this requirement shortly after became nugatory with regard to the rising generation, by vaccination being made one of the subjects of the medical curriculum, so as to render it impossible for anyone to become a registered practitioner without obtaining such a certificate.

Minimum
fees for
public vac-
cination
under Act
of 1867.

Every Public Vaccinator's contract had to provide for payment for each case of successful primary vaccination (*Sec. 6*), and eighteen pence per case was fixed as a *minimum* (*Sec. 8*); the payment for re-vaccination was to be two-thirds that of the former. In addition to the contract payments, on reports made to the Lords of Her Majesty's

Privy Council with regard to the number and quality of the vaccinations in a particular district, the said Lords (*Sec. 5*) were authorized to pay *an additional sum*, not exceeding one shilling per case of primary vaccination.

A Public Vaccinator was restricted to his own district, and could only vaccinate children brought to him from other districts where there was a vacancy in the office of Public Vaccinator in that district, or where he should have notice given him by the Guardians, *in writing*, of default in that official, or where the case was referred to him by the Relieving Officer (*Sec. 11*).

The Guardians were to provide stations in all cases for the Public Vaccinator, and only under exceptional circumstances were the surgeries of the Public Vaccinators to be used as such (*Sec. 7*).

Provision
of public
stations
under Act
of 1867.

In places where the population was scanty, and much scattered, the Guardians were empowered to arrange for the attendance of the Public Vaccinator at certain periods of the year only, and they might make such alterations in the vaccination districts as might from time to time be desirable, with the consent of the Poor Law Board; but in such cases public notice had to be given a month beforehand by printed papers affixed in the districts affected by the alteration.

Every Registrar of Births and Deaths was

Duties of
Registrar
of Births
and
Deaths.

required to give to the person registering a birth a statutory notice, ordering the child to be vaccinated within *three months* after birth, and giving the address of the vaccination station of the district, and the name and time of attendance of the Public Vaccinator.

Attached to the notice were forms of certificates to be filled in according to circumstances by the Public Vaccinator, or any registered medical practitioner—

- (a) To certify that the child had been *successfully* vaccinated ;
- (b) To *postpone* the vaccination on account of the child's bad health ; or,
- (c) To certify as to the child's *insusceptibility* to vaccination ; but it was required to vaccinate the child *three* times before the last certificate could be given.

Public
Vaccinator
to return
certificates
of all
public vac-
cinations.

It was incumbent on every Public Vaccinator, as part of his official duties, to return to the Registrar *one* of these certificates filled in and signed, without fee, and also to give to the child's parents, after vaccination, when so desired, another certificate stating that the child had been successfully vaccinated. When the vaccination had been performed by a registered practitioner, other than the Public Vaccinator, the law cast *upon the parents or guardians* of the child the duty

of returning the certificate to the Registrar, but the practitioner was *bound under a penalty* to furnish the required certificates (*Secs. 24, 30*).

Every parent or guardian of a child was bound within three months of the birth to furnish the Registrar with—

1. A certificate of its successful vaccination ; or
2. Of postponement of vaccination ; or
3. Of insusceptibility to vaccination, unless the child had been taken to the Public Vaccinator, when, as we have seen, the onus of doing this devolved on him (*Sec. 30*).

Parent to return certificate where operation by a private practitioner.

Every parent or guardian of a child was bound within three months of birth to take it to a public vaccination station to be vaccinated, and again to the same station on that day week to be duly inspected, *under a penalty of twenty shillings*, or to have the vaccination otherwise properly carried out by a registered practitioner (*Secs. 16, 29*).

Penalties under Act of 1867.

The Guardians were empowered to pay out of the public funds all reasonable expenses incurred in promoting vaccination, and preventing the spread of small-pox ; as also to pay officers to prosecute persons charged with offences under this Act (*Sec. 28*).

Punish-
ment for
inocula-
tion.

The inoculation of any person with variolous matter was made an offence punishable with a month's imprisonment (*Sec. 32*).

Inspection
under Act
of 1867.

It was the duty of the Public Vaccinator to vaccinate every child brought to his station, who was resident, or had been born in his district, after ascertaining by personal inspection that it was in a suitable condition for the operation, and to instruct the parent to bring it again on that day week; then, if the operation had been successful, and the resulting vesicles were healthy, he might vaccinate other children from the lymph taken from the child's arm; but it was incumbent on him to use the utmost care in the selection of the vaccinifer, and to insure perfect cleanliness with regard to the instruments used, as, for instance, by disinfecting them between each vaccination.

He was further bound to furnish the statutory certificates, and to keep a careful register of his work, which was to be periodically submitted to the Guardians and Poor Law Board for inspection.

To vacci-
nate at
surgery in
small-pox
epidemics.

In times of epidemic small-pox he was authorized to vaccinate at his surgery as well as at the public station, and also at any house within his district when called upon, and to enter all such cases on his register. At such times, under 34, 35 *Vict.*, c. 98, s. 13, and *the Order of the Local Government Board of*

March, 1877, the *District Medical Officer* is authorized to vaccinate and re-vaccinate any persons so desiring, residing in a house, where he is attending a pauper patient suffering from small-pox, and to debit the Guardians with the cost, at the same rate as that chargeable by the Public Vaccinator.

By the Act of 1871 (34, 35 *Vict.*, c. 98) special officers, *Vaccination Officers*, were required to be appointed by the Guardians throughout the country, whose duty it was to give attention to the carrying out of the Vaccination Acts, and to see to the prosecution of offenders; and most of the duties with regard to vaccination, hitherto put upon the Registrar, were transferred to them.

Appoint-
ment of
Vaccina-
tion Offi-
cers by Act
of 1871.
Part of
Regis-
trar's
duties
trans-
ferred to
Vaccina-
tion
Officer.

It became their duty to send notices to the parents of children, to call at their houses if necessary, and to report cases of default to the Guardians. It was further ordered that they should be paid according to the number of certificates of successful vaccination received in their districts.

In 1874 another short Act was passed, but from that date up to 1898 the law of vaccination remained stationary, being only slightly modified at times by occasional Orders of the Local Government Board.

During the first part of this period the machinery created by the Acts worked fairly well. A large proportion of the population

became efficiently vaccinated, and although several virulent epidemics of small-pox occurred, there can be little doubt they were greatly mitigated by the working of these Acts.

Changes
in public
feeling as
to vaccina-
tion owing
to agita-
tion of
anti-vacci-
nators.

But changes took place as time went on. Owing to the determined opposition of a comparatively small portion of the community, who lost no opportunity of traducing the principles of vaccination, and of dragging into publicity, and exaggerating, every accident that occurred in the working of the law (assisted likewise in no small degree by the lessened severity of small-pox during the nineteenth century), popular opinion was slowly undermined, and increasing difficulties arose in carrying out the law.

Owing to the fact that the chief authorities for supervising the law were the Boards of Guardians throughout the country, the anti-vaccination agitation was largely directed to getting as many of their representatives on these Boards as possible.

Action of
anti-vacci-
nators on
Boards of
Guardians.

So successful was their policy, that a few years ago public vaccination was brought almost to a deadlock in certain parts of the country, by the action of the anti-vaccination element on many Boards of Guardians, which was specially directed to prevent all prosecution of those refusing to comply with the law.

As all prosecutions were thought to require

the consent of the Guardians, the latter were practically able to paralyze the existing law. Under these circumstances a Royal Commission was appointed in 1889 to consider the whole question, and to examine the working of the Vaccination Acts.

Deadlock in public vaccination. Appointment of Royal Commission of 1889.

This Commission had as its chairman the late Lord Herschell, and after an existence of seven years, in the course of which it held 136 sittings and examined 187 witnesses, finally published its Report in 1896.

Although the anti-vaccination element was well represented on the Commission, the members by a large majority upheld the salutary influence of vaccination in controlling the virulence of small-pox. Not so, however, the principle of *compulsory* vaccination. By a small majority it was recommended that some means should be tried to respect the prejudices of those who had a *conscientious* objection to the practice. *Animal* lymph was likewise recommended to be used instead of *human*.

In consequence of this Report, and to carry out its recommendations, in 1898 the last Vaccination Act (61, 62 *Vict.*, c. 49) was passed.

The following were the chief changes in the law: The time in which the child was required to be vaccinated was extended from *three* to *six months*. Public vaccina-

tion stations were abolished, and the Public Vaccinator was required to visit, and offer to vaccinate the child at the residence of the parents with glycerinated calf lymph, or 'such other lymph as may be issued by the Local Government Board.'

Changes
produced
by Act of
1898.

The compulsory character of the previous legislation was destroyed by permitting the parents within four months of the birth of the child to go before a stipendiary magistrate or the justices in Petty Sessions, and obtain a certificate that he or they* were satisfied that the applicant had a *conscientious objection* to the practice on the ground that it would be prejudicial to the child's health (*Sec. 2*).

No cumu-
lative
fines.

It settled also the question of cumulative fines by enacting that no person should be prosecuted a *second* time on account of the same child, until it had reached the age of four years, and ordered that offenders convicted under the Acts should be treated as first-class misdemeanants.

Powers of
Local
Govern-
ment
Board
under Act
of 1898.

Full powers were given to the Local Government Board to make Rules and Regulations, and even if necessary to require the Guardians again to supply vaccination stations, and to modify the provisions of the Act requiring the Public Vaccinator to visit at the homes of the parents.

* If certificate is given in Petty Sessions it is to be signed by two justices present, or by the majority of those present.

Having given the preceding short sketch of the origin and progress of vaccination legislation in England and Wales, it will now be well to give more in detail the duties of the Public Vaccinator at the present time, which are governed chiefly by the Acts of 1867 and 1898, and the General Order of the Local Government Board, dated October 18, 1898.

Present
duties of
Public
Vaccina-
tor.

By *Article 1* of this Order ‘*All the Orders of Council, and General and other Orders, made by the Lords of Her Majesty’s Privy Council, the Poor Law Board, and by Us, under, or which have effect under, any of the hereinbefore recited enactments, shall be rescinded,*’ but with the proviso that the validity of any contract for public vaccination made under one of the rescinded Orders is not to be affected, but the Public Vaccinator so appointed from the commencement of the Order must carry out the duties laid down by the present Order, and receive the remuneration ordered by the same in substitution for that received under the old contract.

The Order then proceeds to re-enact many of its former directions for Public Vaccinators with slight modifications.

Article 2 lays down the qualifications required of a medical practitioner to render him eligible for the post of Public Vaccinator,

which are practically those ordered by the Privy Council in 1859.

Present
contract
between
Guardians
and Public
Vaccinator
as to
minimum
fees.

Article 3 relates to the contract between the Guardians and the Public Vaccinator, as also to the contract between the Medical Officer of a workhouse and the Board relative to the vaccination of the inmates, and prescribes the form of the same. It further orders that the payment of the Public Vaccinator shall be not less than *one shilling* in respect of every child whose name is included in an official list, sent periodically by the Vaccination Officer to the Public Vaccinator, to all of which children he must make a domiciliary visit after giving at least twenty-four hours' notice, for the purpose of 'offering to vaccinate'; in addition, a fee of not less than *five shillings* for every primary vaccination or re-vaccination, at the home of the vaccinee, and not less than *half a crown* for every successful case done elsewhere, other than a child, whether primary or re-vaccination.

All con-
ditions
prescribed
by order
must be
observed.

But it specially orders that no payment shall be for any vaccinations done '*not in accordance with the conditions herein prescribed,*' nor '*unless the provisions of the Vaccination Acts 1867 to 1898 as to certificates have been observed.*' Neither may payment be made for re-vaccinating persons less than *ten* years of age, or who shall have been previously re-vaccinated within ten years.

The number of children for whom the fee of one shilling is to be paid must be the number contained in the lists sent from time to time by the Vaccination Officer to the Public Vaccinator in accordance with instruction given to the former officer in Schedule 4, par. 6, of *Instructions to Vaccination Officer*.

What children to be visited by Public Vaccinator.

By *Article 4* the payment to the Medical Officer of the workhouse for each successful vaccination or re-vaccination of inmates, is to be not less than *half a crown*.

Vaccinations by Workhouse Medical Officers.

Article 6 orders that every Public Vaccinator shall diligently perform all the duties imposed on him by his contract *personally*, except when on account of reasonable absence from the district, or on some other sufficient ground, he shall be obliged to leave any of them to be performed by a duly qualified deputy, *approved by the Guardians*.

Article 7 requires the visit of the Public Vaccinator to the homes of children to be made *not earlier than nine o'clock in the morning, and not later than four o'clock in the afternoon*, unless some other time shall have been arranged between him and the parent.

Time when visits must be paid by Public Vaccinator.

Twenty-four hours' notice must be given by the Public Vaccinator of his intention to visit the home, unless the parent agrees to have the child vaccinated without such notice having been given, and the visit must always be made, in the absence of any sufficient

reason to the contrary, *within fourteen days* of a request of the parents, or a notice from the Vaccination Officer. He is also to fill in certain columns in the notice sent him by that officer.

Must keep
Register of
Vaccina-
tions.

Article 9 relates to the Register of Vaccinations that the Public Vaccinator is required to keep.

Appoint-
ment of
Vaccina-
tion
Officer.

Articles 10 to 19 deal with the appointment of the Vaccination Officer. He is to 'continue to hold the office until he shall die, or resign, or be removed by the Guardians with our consent, or by us, or shall be proved to be insane by evidence which we shall deem to be sufficient.'

Articles 20 to 29 deal with the remuneration, duties, costs and expenses of Vaccination Officers.

Article 30 prescribes the various forms to be used for the purpose of the Vaccination Acts 1867 to 1898.

Instruc-
tions of
Public
Vaccina-
tor.

The *Third Schedule* contains *Instructions to Vaccinators under Contract*, which take the place of those laid down by the Order of the Local Government Board, dated February 28, 1887.

They are as follows :

As to con-
dition of
child.

1. Except as far as any immediate danger of small-pox may require, the Public Vaccinator must vaccinate only subjects who are in good health. As regards infants, he must

ascertain that there is not any febrile state, nor any irritation of the bowels, nor any unhealthy state of the skin—especially, no chafing or eczema behind the ears, or in the groin, or elsewhere in folds of skin. He must not, except of necessity, vaccinate in cases where there has been recent exposure to the infection of diseases such as Measles, Scarlatina, or Diphtheria, nor where Erysipelas is prevailing in or about the place of residence.

2. A certificate of postponement must be given by the Public Vaccinator in the form prescribed by the Local Government Board, or to the like effect :

Certificate
of post-
ponement.

- (a) If in his opinion the child is not in a fit and proper state to be vaccinated ; or
- (b) If in his opinion the child cannot be safely vaccinated on account of the condition of the house in which it resides, or because there is, or has been, a recent prevalence of infectious disease in the district ; and in such case the Public Vaccinator is required to forthwith give notice of such certificate to the Medical Officer of Health for the district.

3. All vaccinations are to be performed with glycerinated calf lymph, or with such

Must
vaccinate
with calf
lymph.

lymph as may be issued by the Local Government Board. If the parent or other person having the custody of a child requires that it shall be vaccinated with lymph issued by the Local Government Board, the vaccination must be performed with such lymph.

Must keep
record of
lymph
used.

4. The Public Vaccinator must keep such a record of the lymph he uses for vaccinating as will enable him always to identify the origin of the lymph used in each operation. He must not employ lymph supplied by any person who does not keep an exact record of its source.

Must
sterilize
and keep
clean all
instru-
ments.

5. The Public Vaccinator must keep in good condition the lancets or other instruments which he uses for vaccinating, and he must not use them for any other purpose whatever. When he vaccinates, he must cleanse and sterilize his instrument after one operation before proceeding to another, and must always, when vaccinating, have the means of doing this. When once he has unsealed a tube of lymph, he must never attempt to keep any part of its contents for the purpose of vaccination on a future occasion. Under no circumstances should the mouth be applied directly to the tube in which the lymph is contained, for the purpose of expelling the lymph. In the case of capillary tubes an artificial blower may be properly used for this purpose.

Must not
expel
lymph by
blowing
with
mouth.

6. Vaccination should at every stage be carried out with aseptic precautions. These should include: (1) The cleansing of the surface of the skin before vaccination; (2) the use of sterilized instruments; and (3) the protection of the vaccinated surface against extraneous infection, both on the performance of the operation and on the inspection of the results. Advice as to precautions to be taken in this respect until the scabs have fallen, and the arm has healed, should always be given to the person having custody of the child.

Surface of skin to be sterilized.

7. In all ordinary cases of primary vaccination the Public Vaccinator must aim at producing four separate good-sized vesicles, or groups of vesicles, not less than half an inch from one another. The total area of vesication resulting from the vaccination should not be less than half a square inch.

Four separate vesicles to be produced.

8. The Public Vaccinator must enter all cases in his Register on the day when he vaccinates them, together with all particulars required in the Register up to and including the column headed 'Initials of person performing the vaccination.' The results of the vaccination, which must be attested by the initials of the person who inspects the case, are to be entered on the day of inspection. In cases of successful primary vaccination the Public Vaccinator must record the number

All cases to be entered on same day.

of separate scarified areas, punctures, or groups of punctures, made, and the number of separate normal vaccine vesicles or groups of vesicles which have been produced. In case of re-vaccination he must register as successful only those cases in which either vesicles, normal or modified, or papules surrounded by areolæ, have resulted. When any operation (whether vaccination or re-vaccination) has to be repeated owing to want of success in the first instance, it should be entered as a fresh case in the Register.

Public
Vaccinator
not an
officer of
Guardians.

With regard to the appointment of the Public Vaccinator, it must be remembered that he is not an *officer* of the Guardians in the same sense as the District Medical Officer, or even the Vaccination Officer. He holds no office at all, but is a contractor to do certain work under contract, terminable by a month's notice on either side. His emoluments cannot be added to those received as District Medical Officer to increase the amount of salary on which superannuation can be claimed under the Superannuation Act. Neither may the Guardians deduct any portion of them to contribute towards any superannuation.

Does not
come
under
Super-
annuation
Act, 1896.

Some doubt has been expressed as to the interpretation of the Superannuation Act in this matter, but the Local Government Board have refused to admit that a Public Vaccinator

nator is an officer or servant of the Guardians in the sense therein intended, and in 1898 the Poor Law Medical Officers' Association decided to take counsel's opinion on the subject.

That opinion was adverse to the claims of the Public Vaccinator, Sir Robert Reid, K.C., Sir Robert Reid's opinion. the counsel employed, giving it as his opinion that they did not come within the scope of the Act.

The duties, then, of the Public Vaccinator are to visit, and to endeavour to vaccinate, all the children whose names appear on the lists periodically sent him by the Vaccination Officer, and to enter the names of the vaccinated on his Register, reporting to the Vaccination Officer the names of those whose parents refuse his services.

Between six and fourteen days after the operation he must call and inspect the arms of those vaccinated, and tabulate the results in the same Register. He must vaccinate in all cases with glycerinated calf lymph, and if he desires he can obtain it from the National Vaccine Institution free of cost. In all cases he must be able to *trace the lymph* used, and must take care not to use any lymph where accurate details are not kept of its origin.

In order to claim his fee of five shillings under the contract, he must not perform

Vaccination only to be done at home of patients, where fee of 5s. is charged.

any vaccination *at any place other than the home of the patient*. Where he postpones the vaccination on account of infectious disease being present in the child's house, he is now required to *notify the fact to the Medical Officer of Health*, and in all cases he must strictly follow the directions given in Schedule 3 in performing the operation. In addition to the contract payments, the Public Vaccinator is still entitled to the extra payments, payable under *Sec. 5 of the Vaccination Act, 1867*.

The Public Vaccinator must not forget that under subsection 6 of his Contract Schedule he is bound 'to attend and prescribe such treatment as may be required,' where in his opinion the child requires medical treatment *in consequence* of vaccination, and where the parent, or person having custody of the child, consents to his doing so.

There has not been time as yet to estimate with accuracy what effect the Act of 1898 is likely to have in promoting the efficient vaccination of the population of the country. By the terms of the enactment it is to remain in force for five years, and at the expiry of that time it may be possible to amend it.

Effect of Act of 1898.

At first there was an unmistakable increase in the number of vaccinations, but it is alleged in some quarters that there has since

been a good deal of falling off. There can be no doubt that the 'conscience clause' has not mitigated in any way the opposition of the anti-vaccinators, and that section still does all in its power to hamper the working of the law.

Inutility of 'conscience clause.'

The latest device is to recommend the parents objecting to vaccination to refuse to allow the Public Vaccinator to vaccinate, without applying to a magistrate for the statutory certificate. As many of the Boards of Guardians throughout the country are still controlled by the anti-vaccination element, the action of the Vaccination Officer in prosecuting offenders is largely paralyzed.

Latest devices of anti-vaccinators.

The question has been raised as to the right of the Vaccination Officer to act without the consent of the Guardians in initiating prosecutions, and the Local Government Board have recently expressed an opinion that he is fully entitled since the decision in *Bramble v. Lowe*.

Right of Vaccination Officer to initiate prosecution under the Act (*Bramble v. Lowe*).

That the Vaccination Officer should have that power, and should be loyally supported in his exercise of it by the Local Government Board, is highly desirable.

Now that any parent may obtain release from the compulsory provisions of the Vaccination Acts, by taking the trouble to go before a magistrate, and prove to that

official that he honestly objects to the operation, there can be no possible excuse for lawlessness, and lawbreakers ought in all cases to be punished, unless the law is to be brought into contempt.

Judge
Martineau
at East-
bourne.

In connection with this subject may be mentioned a decision of Judge Martineau at the Eastbourne County Court, on November 8, 1900, in an action where the Eastbourne magistrates sued the Vaccination Officer and Guardians for fees due to them for prosecutions under the Vaccination Acts. The Guardians denied liability, (1) because under 22, 23 *Vict.*, c. 49, s. 1, as the original proceedings by the Vaccination Officer were taken in February, the statutory period of the Guardians' liability expired on June 24; (2) and, further, that the Vaccination Officer had no right to take the steps he did *without the sanction of the Guardians*.

On the other side it was objected that no notice had been given of the statutory defence that was to be set up, and that therefore it was invalid. His Honour decided against the defendants on both points.

He ruled that under the circumstances the time for enforcing such claims against the Guardians had not properly expired, and, with regard to the second contention, that since the decision in *Bramble v. Lowe*, it could not be sustained for a moment. He

stigmatized the action of the Guardians as 'contemptible,' and said he had never known a more disgraceful defence put forward. He gave judgment for the plaintiffs, and refused leave to appeal.

APPENDIX A.

ALTHOUGH the appointment of a District Medical Officer is a permanent one, his contract is open to change as to terms, and therefore there should be a *written contract* between himself and the Guardians.

An Overseer may only grant a midwifery order when the confinement is *imminent*, not days and weeks before it is expected. In the latter case it is his duty to refer the application to the Relieving Officer or the Guardians.

It is of no moment that a poor person is in receipt of other relief when dangerously ill; the Poor Law authorities are bound to provide him with medical attendance if he requires it. This was established in *R. v. Warren* (Russ. and R., Crown Cases, 40 n.).

The District Medical Officer must also attend members of sick clubs if he has an order from the Relieving Officer. To the Guardians *alone* belongs the right of deciding whether a person is entitled to relief, medical or other.

Under a *General Order of September 10, 1877*, the District Medical Officer must visit once a quarter children boarded out by the Guardians, resident in his district, and must make a report on a form prescribed by the Local Government, and for each visit duly reported he may claim a fee of half a crown.

Domestic servants often require medical aid at the cost of the poor rate, as there is no obligation on the employer to pay for their medical attendance. Patteson, J., in *R. v. Smith* (8 Car. and P., 153), told the jury that a master is not bound by the general law to provide medical advice for his servant.

If a District Medical Officer is bound to supply

medicines under his contract, he must provide *some means* of conveying it to his patients, as, for instance, bottles for liquid medicines, and boxes or jars for ointments, but he may require the patient to preserve these and return them. He is not bound to *send* the medicines to houses of the patients when they cannot send for them; in such cases it will be the *duty of the Relieving Officer* to see that the patients receive the medicines.

The District Medical Officer must also keep a register of all his attendances on pauper patients in the form laid down by the Local Government Board.

The personal liability of an Overseer who gives a medical order improperly does not seem very extensive:

In *Wills v. Smith* (a County Court case) an Overseer had given an order to one of the surgeons of the Yeovil Union to attend to a boy who was not a pauper, and an action was brought against him by that surgeon to recover 6s. 6d. as medical charges for his attendance. But the Court held that the defendant had ordered this relief *believing it to be necessary*, and that it was clear no fraud was intended, and that he had acted in what he considered to be the strict discharge of his duty, so that the surgeon did not succeed.

Although the recommendation of the District Medical Officer with regard to the supply of relief other than medicines is not binding on the Relieving Officer, a grave responsibility will be incurred by the latter if he disregards it. If for any reason he should think the recommendation inadvisable, he ought to refer it to the Guardians, without the least possible delay, stating his reasons against, and leaving the decision in their hands.

The Guardians may, if they so desire, call in another medical man to give an opinion on the case of a pauper if they are dissatisfied with that of their Medical Officer. In *Haigh v. North Bierley* (31 L.T., N.S., 213) Erle, C.J., said, 'Suppose the Guardians were dissatisfied with the opinion pronounced by their Medical Officer, might they not call in another medical man?'

With regard to the claim of *privilege* in statements

made by Poor Law officers in the course of their duties, the following cases are of interest :

(a) *Sutton v. Plumridge* (11 L.T., N.S., 741).

Here the plaintiff B was a District Medical Officer, and A the Clerk to the Union, and C the Relieving Officer. A, in pursuance of orders from the Guardians, called twice on B to get him to see a pauper patient, but failed. A then went to C and asked him to try, telling him that when he saw B the previous day the latter was not sober.

In an action by B against A it was held that A's communication to C was privileged.

(b) *Murphy v. Kellett* (13 Ir. C.L. Rep., N.S., 488).

Here the communication of a Medical Officer to a Board of Guardians was held to be privileged. He had stated to his Board, of a wine merchant who supplied the Guardians, that 'no matter what price were given for wine, it will still be South African sherry,' meaning that he would supply a wine that differed from the sample, and of worse quality and price than shown.

The defence was that it was the duty of the defendant as Medical Officer to give the Guardians his view of the plaintiff's wines, and that he had acted without malice. It was held to be good.

Under the Metropolitan Dispensaries Order, April 22, 1871, two kinds of order form were directed to be used by the Relieving Officers—one *printed in red ink*, where a visit was to be made, the other in *black ink*, where the pauper was able to come to the dispensary to consult the doctor, who is bound to attend there daily, at hours fixed by the Guardians, for the purpose of seeing such as are able to come to him.

Unless the visiting order was marked '*Urgent*,' the doctor was not required to make a visit before the next day, if the order was not presented to him before noon on the day of issue. Under *Art. 6, Local Government Board Order, May 25, 1857*, the Guardians were authorized in emergencies to appoint Medical Officers to act tem-

porarily, but the appointment had to be approved by the Local Government Board.

Under the *General Order of November 11, 1879*, the Board of Management of every school district named in Schedule of Order was permitted to appoint a Medical Officer to the schools under its management.

Art. 1 required that he should do his duties personally, and not employ a deputy unless with consent of the Local Government Board.

Art. 3 ordered that he should appoint some registered practitioner to act for him in his absence, whose name should be submitted to the Superintendent of the school.

Annual Holiday for Poor Law Medical Officers.

As in Ireland the Boards of Guardians have power to pay a deputy for the District Medical Officer during his annual holiday, the Council of the Poor Law Medical Officers' Association of England and Wales in October, 1900, asked the Local Government Board if it would be lawful for Boards of Guardians in England and Wales to make the same payments.

The following answer was received :

WHITEHALL, S.W.,
November 16, 1900.

SIR,

I am directed by the Local Government Board to advert to your letter of the 31st ult., and, in reply to inquiries therein contained, to inform you that, in cases in which Boards of Guardians duly appoint temporary substitutes during leave of absence granted to Medical Officers, *Art. 193* of the *General Order of July 24, 1847*, applies, viz. : 'If any officer or assistant appointed to or holding any office or employment under this Order be at any time prevented by sickness or accident or *other sufficient reason* from performance of his duties, the Guardians may appoint a fit person to act as his temporary substitute, and may pay him reasonable compensation for his services.'

No approval on the part of the Board is required to the appointment of the temporary substitute or to his remuneration.

I am, sir,

Your obedient servant,

W. E. KNOLLYS,

Assistant Secretary.

MAJOR GREENWOOD, M.D.,
Hon. Sec. to the Poor Law Medical
Officers' Association.

Where there is no Certifying Surgeon resident within three miles of a factory, the *District Medical Officer* must act as *certifying surgeon* for the time being, and has all the powers of that official, and can claim the same remuneration (41, 42 *Vict.*, c. 16, s. 71).

APPENDIX B.

POOR LAW MEDICAL OFFICERS AND THE LUNACY LAW.

THE following sections of the Lunacy Act, 1890, are of importance to District and Workhouse Medical Officers :

Section 14 enacts that every *District Medical Officer*, who has knowledge that a pauper resident within his district is, or is deemed to be, a lunatic, shall within *three* days of gaining such knowledge give notice in *writing* to the *Relieving Officer*, or if there is no such officer, to an *Overseer* of the parish in which the lunatic resides.

Section 16 enables a justice in such cases to make a reception order on the certificate of *one* medical practitioner.

Section 18 forbids a justice to sign a reception order for a person as a pauper lunatic unless the latter *is in receipt of relief*. But if the lunatic is visited by the District Medical Officer at the expense of the rates, he is to be regarded as in receipt of relief.

Section 20 authorizes the removal of dangerous lunatics by a Relieving Officer or Overseer, acting on his own responsibility, to the workhouse for a period of *three days*, before the expiry of which the lunatic must be seen by a justice, who may authorize his detention there for *fourteen days*.

As an alternative, the Workhouse Medical Officer may certify—

- (a) That he or she is a lunatic ;
- (b) That he or she is a proper person to be allowed to remain in the workhouse as a lunatic ;

- (c) That the accommodation in the workhouse is sufficient for proper care and treatment separate from other inmates, or that it is not necessary to keep the lunatic separate.

This certificate will hold good for *fourteen days*, when, if further detention is necessary, *an order from a justice must be obtained*. In applying for a further order for such detention, the application of the Relieving Officer must be supported by a certificate from the Medical Officer of the workhouse, and *some other registered practitioner*, and the Guardians are authorized to pay the latter any remuneration *they think fit*.*

The Commissioners of Lunacy have expressed an opinion that the Workhouse Medical Officer should not give more than *one* detention certificate for the same case, although, according to the wording of Section 24, there is nothing to prevent him from giving any number, provided they are given alternately with the justice's order.

The usual practice is for the Workhouse Medical Officer, before the expiry of the certificate or the justice's order, to give notice in writing to the Relieving Officer, under *Section 24 (6)*, that there is in the workhouse a lunatic requiring to be sent to an asylum. Whereupon the same procedure will be repeated by the latter as on the first admission of the patient, and so on, until he be removed to a suitable asylum.

Section 25 authorizes the detention of a lunatic without further order in the workhouse of the parish to which he belongs, on being discharged from an asylum, when the Medical Officer of that institution shall certify that the patient has not recovered, and the workhouse doctor is of the same opinion, and certifies in writing that the accommodation in the workhouse is sufficient, and that the case can be kept separate from the other inmates, or that such separation is not necessary.

Section 40 enacts that in the case of *mechanical restraint* it is only permissible—

* In 1891 the Council of the Poor Law Medical Officers' Association passed a Resolution that half a guinea was a suitable fee.

- (a) For purpose of surgical or medical treatment ;
- (b) For preventing the lunatic from injuring himself or others ;

and that in workhouses a record of all cases where such restraint is employed must be kept, and a certificate must be signed by the Medical Officer, stating the grounds of its use, and that copies of this record and the certificates must be sent to the Guardians by the Clerk. When no restraint has been used a 'Nil' return must be made. Any person acting in contravention of this section shall be guilty of a misdemeanour.

Section 202 (3) orders that when a pauper lunatic has been handed over to the custody of relations with an allowance for maintenance, that it shall be the duty of the *District Medical Officer*, after each quarterly visit, *within three days*, to send the Visiting Committee a report, stating whether the lunatic is properly taken care of, and may rightly remain out of an asylum ; and (4) directs that he shall be paid half a crown for each quarterly visit to a pauper not in a workhouse.

As the District Medical Officer is required to visit quarterly every pauper lunatic not in an asylum, residing in his district, it might happen that the lunatic was only at times chargeable to the parish, and not so chargeable at other times. The law is that, if at any time during the quarter the lunatic is chargeable, the District Medical Officer may claim his fee for the visit, which he is in that case bound to make. When he has received an order indefinite as to time, to attend to such a lunatic, so long as he enters the case in his outdoor relief medical book, he will be entitled to claim the fee for periodic visits.

Where a lunatic is residing in a different Union to that chargeable with his maintenance, it is the duty of the District Medical Officer of the *parish in which the lunatic resides* to make the periodic visit, but his fees must be paid by the other Union, and the same rule applies to attendance on a sick pauper.

APPENDIX C.

PUBLIC VACCINATOR (VACCINATION ACT, 1898).

FIRST SCHEDULE.

Form of Vaccination Contract.

ARTICLES OF AGREEMENT entered into this
day of _____, One thousand nine hundred and
_____, between _____ of the one
part, and the Guardians of the Poor of the
Union, in the County of _____, of the other
part.

WHEREAS the said Guardians have, in pursuance of
the several Statutes in that behalf, with the approval of
the Local Government Board, divided the Union afore-
said into Districts for the purpose of Vaccination, one
of which Districts comprises the Parishes and Places
following ; that is to say,

_____ ; and the
said Guardians have agreed with the said
_____ to enter into a Contract for the perform-
ance of Vaccination in the said District :

NOW, THEREFORE, the said _____ doth hereby
covenant and agree with the said Guardians and their
successors that, from and after the _____ day
of _____, he will (subject to any Order as to
Vaccination made by the Local Government Board under
Section 7 of the Vaccination Act, 1898) by himself, or
(when he shall be unable to perform his duties in person)
by the deputy hereinafter mentioned, or who may here-

after be approved by the Guardians, and whose name may be endorsed hereon, duly and according to the requirements of the Acts and Orders relating to Vaccination perform the following duties :

- (1) In the case of every child resident in the District, on the request of the parent or other person having the custody of the child, he will, within two weeks after the receipt of such request, visit the home of the child for the purpose of vaccinating the child.
- (2) In the case of every child resident in the District who has reached the age of four months, and as to whom he has received the requisite notice from the Vaccination Officer, he will visit the home of the child within two weeks after receipt of the notice, and offer to vaccinate the child with glycerinated calf lymph, or such other lymph as may be issued by the Local Government Board, and if his offer is accepted will thereupon (or after such postponement, if any, as may in his opinion be necessary) so vaccinate the child.
- (3) In the case of any person not being a child, and applying to him for primary vaccination, or of any person applying to him for re-vaccination, who shall be not less than ten years old, and shall not have been previously re-vaccinated within a period of ten years, he will, if so requested, visit the home of such person for the purpose of vaccinating or re-vaccinating him, or will, if not so requested, perform the operation at his surgery, or at such other place as may be arranged by him with the person so applying.
- (4) In every such case he will do and perform all such acts and things as, to the best of his judgment, and in accordance with the requirements of the Orders in force as to Vaccination, shall seem to

him necessary for the purpose of causing the vaccination to be successfully terminated.

- (5) In every case in which he has performed vaccination he will, not less than six days nor more than fourteen days after the operation, attend at the place where the vaccination was performed, or, in the case of a re-vaccination, at such other place as may be arranged, and inspect the result of such vaccination; and will thereafter do such acts, and give such directions, and otherwise treat the case as may be necessary.
- (6) If any child vaccinated by him shall, in his opinion, require medical treatment in consequence of the vaccination, he will, if the parent or other person having the custody of the child consent, attend the child and prescribe such treatment as may be required.
- (7) He will keep a book, to be termed 'The Vaccinator's Register,' according to the form prescribed by the Local Government Board, to be provided for him by the said Guardians, and will, on the same day on which he shall have vaccinated any person to whom this Contract shall apply, and on the same day on which he shall have inspected the results of the vaccination of such person, make the entries respectively applicable to the vaccination and the inspection of the results of the vaccination, and will on the day next before the first ordinary meeting of the said Guardians in every quarter of the year, and also at such other times as may be required by the Guardians or for purposes of audit, deliver, or cause to be delivered to their Clerk, the book in which he shall have made such entries during the interval preceding such meeting or audit.
- (8) He will make out an account at the end of every quarter of the sums payable to him under this Contract, and will cause the same to be delivered

to the Clerk to the Guardians as soon as practicable after the end of the quarter.

- (9) He will perform any other duties in regard to vaccination which may be imposed on him by the Vaccination Acts, 1867 to 1898, or by any Order of the Local Government Board under those Acts.

AND the said Guardians do, for themselves and their successors, covenant and agree with the said as follows :

That is to say—to pay him, his executors or administrators, within one calendar month after Lady Day, Midsummer Day, Michaelmas Day, and Christmas Day respectively, during the subsistence of this Contract, and within one month after its termination, the following sums :

- (1) A sum of _____ in respect of every child whose birth shall have been registered in his District after the 31st day of August, 1898, or who shall be resident in his District and whose birth shall have been registered in some other District after that date, or shall not have been registered at all, except children who shall have died or been removed from the District before attaining the age of four months, or shall have been duly certified to have been successfully vaccinated otherwise than by the Public Vaccinator, or to be insusceptible of vaccination, or to have had small-pox, before reaching that age, or with regard to whom a certificate under Section 2 of the Vaccination Act, 1898, is in force ; the number of children in respect of whom payments are to be made being the number in the lists to be sent by the Vaccination Officer to the Public Vaccinator as provided by paragraph 6 (a) of the 'Instructions to Vaccination Officers' in the Fourth Schedule to the Vaccination Order, 1898, together with the

number of children not included in such lists, but vaccinated by the Public Vaccinator himself.

(2) A sum of _____ for every successful primary vaccination or re-vaccination performed by him under this Contract at the home of the person vaccinated.

(3) A sum of _____ for every successful primary vaccination of any person other than a child and every successful re-vaccination, such primary vaccination or re-vaccination having been performed by him under this Contract at the Vaccinator's Surgery, or elsewhere than at the home of the person vaccinated :

Provided that no payment shall be made in respect of any primary vaccination or re-vaccination unless the same shall have been performed in accordance with the conditions prescribed by the Vaccination Order, 1898, nor unless the provisions of the Vaccination Acts, 1867 to 1898, and of that Order in regard to certificates and their transmission, and otherwise shall have been observed in relation thereto ; nor shall any payment be made in respect of any vaccination or re-vaccination, the particulars of which shall not have been duly entered in the Vaccinator's Register, except in the case of any omission which shall be explained to the satisfaction of the said Guardians.

The said Guardians approve of _____ as
the occasional deputy of the said
for the purposes of this Contract.

AND it is mutually agreed that this Contract may be put an end to by either of the parties thereto, by giving twenty-eight days' notice to the other party of the intention to put an end to the same.

In witness whereof the said
hath hereunto set his hand and seal, and the

said Guardians their Common Seal, the day and year first above written.

Signed, sealed, and delivered by }
the above-named
in the presence of }

(L. S.)



The Common Seal of the Guardians of the above-named Union was hereto affixed at a meeting of the Board of Guardians, held on the day of the date hereof by
Chairman of the Board at the said meeting in the presence of

.....
Clerk to the Guardians of the said Union.

SECOND SCHEDULE.

Form of Vaccination Contract with the Medical Officer of a Workhouse.

ARTICLES OF AGREEMENT entered into this
day of _____, One thousand nine hundred
and _____, between
of the one part, and the Guardians of the Poor
of the _____ Union, in the County of
_____, of the other part.

WHEREAS the said Guardians have, in pursuance of the several Statutes in that behalf, with the approval of the Local Government Board, divided the Union aforesaid into Districts for the purpose of Vaccination, one of which Districts consists of the Workhouse of the said Union; and the said Guardians have agreed with the said _____ to enter into a Contract for the performance of Vaccination at the said Workhouse :

NOW, THEREFORE, the said
doth hereby covenant and agree with the said Guardians

and their successors that, from and after the day of _____, he will by himself, or (when he shall be unable to perform his duties in person) by the deputy hereinafter mentioned, or who may hereafter be approved by the Guardians, and whose name may be endorsed hereon, duly and according to the requirements of the Acts and Orders relating to Vaccination perform the following duties :

- (1) In the case of every child resident in the Workhouse, on the request of the parent or other person having the custody of the child, he will, as soon as practicable after such request, attend at the Workhouse for the purpose of vaccinating the child.
- (2) In the case of every child resident in the Workhouse who has reached the age of two months without having been vaccinated he will offer to vaccinate the child with glycerinated calf lymph, or such other lymph as may be issued by the Local Government Board, and if his offer is accepted will thereupon (or after such postponement, if any, as may in his opinion be necessary) so vaccinate the child.
- (3) He will vaccinate any other person resident in the Workhouse applying to him for primary vaccination or re-vaccination, provided that in the case of re-vaccination such person shall not be less than ten years old, and shall not have been previously re-vaccinated within a period of ten years.
- (4) In every such case he will do and perform all such acts and things as, to the best of his judgment, and in accordance with the requirements of the Orders in force as to Vaccination, shall seem to him necessary for the purpose of causing the vaccination to be successfully terminated.
- (5) In every case in which he has performed vaccination or re-vaccination he will, if the person vaccinated is still in the Workhouse, not earlier

than the fifth day, nor later than the tenth day, after the operation inspect the result ; and will thereafter do such acts, and give such directions, and otherwise treat the case as may be necessary.

- (6) He will keep a book, to be termed 'The Vaccinator's Register,' according to the form prescribed by the Local Government Board, to be provided for him by the said Guardians, and will, on the same day on which he shall have vaccinated any person to whom this Contract shall apply, and on the same day on which he shall have inspected the results of the vaccination of such person, make the entries respectively applicable to the vaccination and the inspection of the results of the vaccination, and will, on the day next before the first ordinary meeting of the said Guardians in every quarter of the year, and also at such other times as may be required by the Guardians, or for purposes of audit, deliver, or cause to be delivered to their Clerk, the book in which he shall have made such entries during the interval preceding such meeting or audit.
- (7) He will perform any other duties in respect of vaccination which may be imposed on him by the Vaccination Acts, 1867 to 1898, or by any Order of the Local Government Board under those Acts.

AND the said Guardians do, for themselves and their successors, covenant and agree with the said as follows :

That is to say—to pay him, his executors or administrators, within one calendar month after Lady Day, Midsummer Day, Michaelmas Day, and Christmas Day respectively, during the subsistence of this Contract, and within one month after its termination, the sum of
for every successful primary vaccination
or re-vaccination :

Provided that no payment shall be made in respect of any primary vaccination or re-vaccination unless the same shall have been performed in accordance with the conditions prescribed by the Vaccination Order, 1898, nor unless the provisions of the Vaccination Acts, 1867 to 1898, and of that Order in regard to certificates and their transmission, and otherwise shall have been observed in relation thereto, nor shall any payment be made in respect of any vaccination or re-vaccination, the particulars of which shall not be duly entered in the Vaccinator's Register, except in the case of any omission which shall be explained to the satisfaction of the said Guardians.

The said Guardians approve of as
the occasional deputy of the said
for the purposes of this Contract.

AND it is mutually agreed that this Contract may be put an end to by either of the parties thereto, by giving twenty-eight days' notice to the other party of the intention to put an end to the same.

In witness whereof the said
hath hereunto set his hand and seal, and the
said Guardians their Common Seal, the day and
year first above written.

Signed, sealed, and delivered by }
the above-named
in the presence of }

(L. S.)



The Common Seal of the Guardians
of the above-named Union was hereto
affixed at a meeting of the Board of
Guardians, held on the day of the date
hereof by
Chairman of the Board at the said
meeting, in the presence of

.....
Clerk to the Guardians of the said Union.

Re THE POOR LAW OFFICERS' SUPERANNUATION ACT, 1896.

CASE FOR THE OPINION OF COUNSEL.*

The Poor Law Medical Officers' Association is an old Association which was formed to protect the interests of Poor Law Medical Officers, and one of the objects of the Association was to procure superannuation for such officers.

At a meeting of the Council recently the effect, upon the Poor Law Medical Officers, of the above Act was considered; as it has become known to the Medical Profession that, in the opinion of the Local Government Board, the Act does not apply to those Medical Officers who only hold the office of Public Vaccinators, and, indeed, it is questioned by that body whether the Act applied to offices of Public Vaccinator held with another office or not; and it is with regard to the position of this important body of public officers that the opinion of Counsel is desired.

By *Section 2* of the Act in question 'every officer and servant in the service or employment of the Guardians of a Union or Parish under the circumstances therein mentioned is entitled to superannuation.'

By *Section 19* (interpretation clause) 'officer' is defined as including 'every officer in the service of an authority to whom this Act applies, whether his whole time is devoted to the duties of his office or not, and for the purposes of this Act Superintendent Registrars and Registrars of Births and Deaths and School Attendance Officers are deemed to be in the service of the Guardians of the Union in which their districts are situated.' By the same section 'servant' is to include 'every servant regularly employed at wages by any such authority as aforesaid.'

By *Section 12* of the Act every *officer* and *servant* is to contribute to the fund for the purposes of superannuation a percentage amount of his salary or wages and

* Submitted by Messrs. Beckingsale and Co., Solicitors to the Poor Law Medical Officers' Association.

emoluments. By the interpretation clause alluded to above, 'emoluments' 'includes all fees, poundage, and other payments made to any officer or servant as such for his own use, also the money value of any apartments, rations or other allowances in kind appertaining to his office or employment.'

By *Section 18* power is given to the Local Government Board to decide questions arising between Guardians or any other authority to whom this Act applies and any *officer* or *servant*, and which may be referred to them by either party, as to the right to or amount of superannuation allowance.

As is well known to Counsel, all Guardians and Local Authorities appoint what they call a Medical Officer, whose duty is to attend to the poor, at a salary and certain fixed fees in respect of midwifery and accidental cases, and the same Authority also appoint a Public Vaccinator in the same parish, who is paid by fees only. It is also probably well known to Counsel that it is usual, in appointing a Medical Officer for the parish, to include also the office of Public Vaccinator, where such office is vacant and available ; but this is not always the case. The Medical Officer is appointed by the Guardians, but such appointment has to be sanctioned by the Local Government Board. The Guardians cannot dismiss the Medical Officer without the sanction and approval of the Local Government Board. Public Vaccinators are appointed by the Guardians solely, and are removed from that office by them ; and, as above mentioned, they receive fees only.

The questions which suggest themselves are :

- I. Are Public Vaccinators *officers* under this Act, and as such entitled to superannuation under the Act of 1896 ?
- II. Has the Local Government Board sole power to decide whether Public Vaccinators are officers or not ?
- III. If Public Vaccinators are *officers*, are they entitled to superannuation under the Act ?

IV. Whether Medical Officers, who are entitled under the Act to superannuation as such, are also entitled to a further allowance in respect of the office of Public Vaccinator, where they hold such an appointment?

It is contended by the Association that Public Vaccinators are *officers* under the Act, and that the wording of *Section 2* necessarily includes a Public Vaccinator in the words *every officer and servant in the service or employment of the Guardians*; moreover, that Medical Officers holding the office of Public Vaccinator are included in the Act has been recognised and accepted by Boards of Guardians and other public authorities in the country on the principle that the fees of a Public Vaccinator come under the head of emoluments, for which allowance could be made in contributing to the common fund.

It has been suggested that Public Vaccinators could not be entitled to superannuation, because under *Section 12* nothing could be deducted from their fees, seeing that they are paid neither by salary nor wages, but by a contract fee for each case of vaccination. The Act, however, as we have pointed out, uses the words *wages and emoluments*, and it is questioned whether the word *emoluments* referred to, applies only to such as are received by officers in addition to their regular salary or wages. As against this, attention should be directed to *Section 19*, with regard to District Registrars of Births and Deaths, who are specially mentioned as being officers included in those persons entitled to superannuation, and these gentlemen are paid in precisely the same way as Public Vaccinators.

It has been further suggested that, as District Registrars and some other officers are specially mentioned, therefore Public Vaccinators are by inference excluded.

Counsel will be pleased to advise upon the points raised.

1, TEMPLE GARDENS, E.C.,
May 7, 1897.

We are of opinion that—

I. Reading the different portions of the Poor Law Officers' Superannuation Act together, the only persons (except those specially mentioned in the definition clause) entitled to superannuation are persons between whom and the Guardians there is a relation of service or employment.

The Act does not confer superannuation upon persons whose relation to the Guardians is that they merely contract with them to do specified work.

In the case of District Medical Officers, they are, according to the term of the statutes, 'appointed' to an *office*, and paid a *salary*. So they are *officers* employed by the Guardians. Now, the position of Public Vaccinators is regulated by 30 and 31 Vict., c. 84, under which the Guardians do not 'appoint,' nor is the position called therein an *office*, nor is a *salary* paid.

The Guardians are required to enter into a contract with some duly registered medical practitioner, called the Public Vaccinator, which is to contain stipulations and conditions to secure the due vaccination of persons, etc. We do not consider that this statute creates a relation of service or employment, nor is such relation created by the terms of the contract itself set out in *Glen's Poor Law Orders*, p. 525, though it might be. And we assume that the contract is always in those terms. We think, therefore, there is no title to superannuation on such a contract. It is true that Superintendent Registrars and Registrars of Births and Deaths are, by *Section 19* of the Act of 1896, deemed to be in the service of the Guardians. The reason is that, by the Acts creating their offices, they are not in the service of the Guardians, though they are *officers*, and so styled in the Acts.

This, therefore, does not affect the question here raised, and a similar reason exists for the mention of School Attendance Officer in *Section 19*.

II. The Local Government Board have no power to determine this question. They can only determine differences between the Guardians and persons who in fact are *officers*.

III. This has been already answered.

IV. Medical Officers of the Guardians, who are entitled to superannuation under this Act, are not entitled to a further allowance in respect of the office of Public Vaccinator, if they hold such, as *Section 19* of the Act lays down that only those emoluments are to be included that accrue to the officer in virtue of the office for which he claims superannuation.

R. REID.

M. GREENWOOD.

SUGGESTIONS AND RECOMMENDATIONS TO MEMBERS OF THE ASSOCIATION OF PUBLIC VACCINATORS ARISING OUT OF THE VACCI- NATION ORDER, 1898.*

COMPILED AT THE REQUEST OF THE COUNCIL OF THE ASSOCIATION
BY DR. A. E. COPE.

NOTE.—Inverted commas indicate extracts from the Act, Order, or Official Communication of Local Government Board.

ARTICLE 1.—POSITION OF PUBLIC VACCINATOR.

‘The validity of any *contract* entered into by any Public Vaccinator.’

‘The appointment or tenure of *office* of any Vaccination Officer.’

There is absolutely no reason why the Public Vaccinator should not be *an officer* just as much as the Vaccination Officer, and members of the Association are urged to miss no opportunity of impressing this fact upon every member of Parliament, so that the anomalous position of the Public Vaccinator, subject to twenty-eight days’ notice at the will of the Guardians, may be corrected.

Bound up with the position of the Public Vaccinator under contract, is the question of *superannuation*, and in response to an inquiry as to whether, under the altered circumstances of the new Act, there was any prospect, without legislation, of Public Vaccinators being brought within the provisions of the Poor Law Officers’ Superannuation Act, 1896, the Local Government Board have stated that they have ‘no authority under which they could direct that the provisions of this Act shall apply

* By kind permission of the Association of Public Vaccinators.

to Public Vaccinators.' The only method, therefore, of securing more favourable conditions of appointment appears to be through the intervention of Parliament.

ARTICLE 3.—FEES AND POSTAGE.

Fee (a).—Our Association recommended that applications should be made to Boards of Guardians for half a crown instead of one shilling, in the case of this fee, which, for fault of a better name, may be called the *visiting fee*.

By paragraph (2) this is payable—

1. In respect of every child in Vaccination Officer's lists. These lists are only to contain the name of a child once, and consequently 'a Public Vaccinator will not be entitled to more than one fee under Article 3 (1) (a) in respect of any one child.'
2. In respect of every child (*i.e.*, by definition at the end of the Order, 'any person not more than fourteen years of age') 'not included in such lists, but vaccinated by the Public Vaccinator himself,' whether at the request of parent or Vaccination Officer is immaterial.

No *primary vaccination* of persons under fourteen (children) can, except by special order under Section 7, be charged to the Guardians unless it has been performed at the home of the person vaccinated. A *re-vaccination* may be performed at any place which may be arranged, but cannot be charged to the Guardians if the person is under ten years of age, or within ten years of a previous re-vaccination.

Although there is no provision in the Order for *mileage*, 'in respect of children at a considerable distance from the Public Vaccinator's residence,' the Local Government Board 'will be prepared to consider proposals' as to the payment of 'a higher fee than the prescribed minimum.'

Postage.—The forms B, C, D, E, are the only ones supplied stamped ; forms H, I, P, will require stamping. In addition the suggestion has been made that the Public Vaccinators should *supply Registrars with post-cards*, ready stamped, printed with form G, and addressed to the Public Vaccinator, with a request that one should be handed to any parent wishing form G, and that on the post-card should be a space in which the parent might state what would be a convenient day and time for the Public Vaccinator to visit.

No notice is required for *visit of inspection*, but, unless a fixed day of inspection is mentioned when the child is vaccinated (as, for example, that day week, the eighth day), it will be advisable to send a post-card notifying of the proposed visit of inspection, so as to reduce the chance of the child being away from home on the occasion of one's visit.

In addition, in any case where *subsequent treatment* should be deemed advisable by the Public Vaccinator, it would be highly desirable to ascertain whether there had been any regular medical attendant, and to notify him of the circumstance, and secure his acquiescence.

Article 7.—1. '*At least twenty-four hours' notice.*' It will be wise to make a practice of giving two days' notice, posting on Saturday for Tuesday, Monday for Wednesday, etc.

2. '*Sufficient reason for delay.*' Rural and urban districts are both alike subject to the rule of visit within a fortnight of receiving notice, the old system of quarterly or half-yearly vaccination being no longer necessary on account of the abolition of arm-to-arm vaccination and vaccination stations. If, however, roads are impassable and communication cut off in rural districts, such should be '*sufficient reason for delay.*'

3. '*The several particulars as to each visit made by him.*' 'It is not necessary that provision should be made for notifying to the Vaccination Officer the particulars of any visit made by the Public Vaccinator after he has

returned form H to the Vaccination Officer,' as, for example, in a case which is under postponement by Public Vaccinator.

FIRST SCHEDULE.—FORM OF VACCINATION CONTRACT.

Postponement.—‘On the expiration of the period for which a certificate of postponement of vaccination is given, it rests with the Vaccination Officer to follow up the case if he has not received a further certificate of postponement or one of the certificates referred to in paragraph 2 of the Instruction in *Schedule 4*; but a Public Vaccinator, when he has given a certificate of postponement, should again visit the child, before the expiration of the certificate, in order to ascertain whether the child is in a fit state for vaccination, and in that case to vaccinate the child, or otherwise to give a fresh certificate of postponement.’

Children born before passing of Act.—The Local Government Board ‘are disposed to think that the Public Vaccinator’s offer to vaccinate is intended to be made after the child has attained four months, and before it has attained six months, and that the names of children who have attained six months on the 1st of January next, should not be included in the list to be sent by the Vaccination Officer to the Public Vaccinator.’

Although, therefore, the Vaccination Officer is not to place such cases in his official list to Public Vaccinator, the Public Vaccinator and Vaccination Officer would do well to come to some arrangement according to which, if the Vaccination Officer thought a visit from Public Vaccinator would be likely to result in vaccination of a child in default on January 1, on notification of the same to Public Vaccinator he would visit the case. If Vaccination were refused he would get nothing for his trouble; if vaccination were performed, subsequently inspected, and result found successful, Public Vaccinator would claim fees (a) and (b) from the Guardians in

respect of such case. Some Public Vaccinators have decided to visit and offer to vaccinate all defaulters in their districts before Vaccination Officer prosecutes.

‘*Offer to vaccinate.*’ It was felt that some definition of this was desirable. Thus, if after giving notice the Public Vaccinator found no one at home, would his giving written notice and making the visit be sufficient to constitute an ‘offer to vaccinate,’ or would he have to visit again until he could orally, to parent or other person having custody of child, offer vaccination? The Local Government Board ‘think that if the Public Vaccinator visits the home after giving due notice, and the parent or other person does not show good cause for the child not being available, it might be held that an offer had been made. This question, however, is one for the Court rather than for this Board, and will depend upon the circumstances of individual cases.’ In the meantime probably the only course is for the Public Vaccinator to repeat his visit in any such case.

‘*Inspection.*’ It is necessary to *attend* at the place where the vaccination was performed and *inspect* the result of such vaccination.

‘A Public Vaccinator is not entitled to the fee payable under Article 3 (1) (b) unless the vaccination has been inspected by him or his duly qualified deputy, *within fourteen days* from the date of vaccination. If, however, a visit has been made for the purpose of inspection within that period, and the Public Vaccinator has failed to see the child, the Board are not prepared to say that the Public Vaccinator would not be entitled to the fee if the actual inspection is made after the end of fourteen days.’

GENERAL REMARKS.

1. *Calf Lymph.*—It is not necessary for Public Vaccinator to always use Local Government Board lymph, but he must use it when requested, and a sufficient supply will be forwarded upon application to the

National Vaccine Establishment for all his requirements. If he uses any other lymph, he must provide it at his own expense, and must be able to trace its source accurately, and under no circumstances whatever can he employ human lymph in his public vaccination.

2. *Government Grant*.—‘ It is proposed that the system of inspection of vaccination by Inspectors of the Board, and awards to Public Vaccinators, under Section 5 of the Vaccination Act, 1867, should be continued ;’ but inasmuch as these awards are only paid to Public Vaccinators who are under contract at the time of inspection, it is recommended that any Public Vaccinator proposing to resign, if he desires to obtain the award, should retain his appointment until after the next visit of the Local Government Inspector.

3. *Guardians and Minimum Fees*.—As in many instances the Guardians have acted in such a way as to entirely defeat the object of the Local Government Board in trying to secure conference in regard to fees, and have, under threat of dismissal, imposed the minimum fees on Public Vaccinators in cases where the work is extremely arduous, it will be wise in such cases to contemplate and be prepared to appeal to the Guardians for the revision of fees at an early date, and with this in view to keep account, as far as possible, of the work done, time spent, and distance travelled, so that there may be an opportunity for a fair representation of the vast difference between the old and new systems.

4. *Public Vaccinator’s Position*.—For the next five years the Public Vaccinator is thrown into much more close relations than before with the public, with the private practitioner, with the Medical Officer of Health, and with the Vaccination Officer, and his position, therefore, is one which will call for the utmost tact and discretion if the cause of vaccination is not to suffer. It is particularly desirable that he should heartily co-operate with the Vaccination Officer.

5. *Literature*.—As much depends in regard to the

future position of vaccination upon seizing the opportunity of domiciliary vaccination for enforcing the facts of small-pox and vaccination, we would urge every member of the Association to make himself familiar with pro- and anti-vaccination literature. We trust that valuable guidance on this point may be given by our Association from time to time. The work of the Jenner Society in this respect is worthy of every support. Shaw's *Manual of the Vaccination Law*, Shaw and Sons, Fetter Lane, will be useful for reference.

6. *Epidemics*.—As is shadowed in the recently published report to Local Government Board of its Medical Officer, Sir Richard Thorne Thorne, the present vaccination default is a fact of grave significance, and we may have to face extensive epidemic prevalence of small-pox. It would be wise, as far as possible, for each member to keep personal records of any such epidemic outbreaks.

7. *Journal of Public Vaccination*.—We feel that there should be beside the medical journals some review or organ of the Association in which records of personal experience and observation might be preserved, and we would commend to members of the Association the importance of gathering up the little fragments of evidence which may come in their way, even in non-epidemic times. By this means a considerable body of personal testimony of the greatest value may be collected.

8. *The Association and its Members*.—As the strength of the Association will largely depend upon its numbers, we desire to appeal to all members to bring their influence to bear upon their colleagues and neighbouring Public Vaccinators, so that they may be induced to join the Association.

THIRD SCHEDULE.

Instructions to Public Vaccinators—Aseptic Vaccination.—
'Vaccination should at every stage be carried out with aseptic precautions. These should include :

1. 'The cleansing of the surface of the skin before vaccination.
2. 'The use of sterilized instruments.
3. 'The protection of the vaccinated surface against extraneous infection, both in the performance of the operation and on inspection of the results. Advice as to the precautions to be taken in this respect until the scabs have fallen and the arm has healed should always be given to the person having the custody of the child.'

The question of the best method of aseptic vaccination is one which cannot be settled until many trials of many methods, in the hands of many observers, have given us a body of facts and opinions on which a just conclusion may be based.

There are a few considerations, however, which it is well to recognise at the outset:

1. We must aim at *aseptic* as distinguished from antiseptic methods, the exclusion rather than the destruction of other organisms than the organism causing vaccinia.

2. As far as the *lymph* is concerned, this is guaranteed by its exposure to glycerine for a definite period before issue.

3. As regards the child's arm, the number of organisms to be dealt with is likely to be larger when the average age is four to six months than when one to three months. Hence it is wise to *encourage early vaccination*, the experience of the past showing the rareness of septic conditions in infantile vaccination, and the increasing risk with increasing age.

4. In the vast majority of instances, *cleansing the arm* with ordinary soap and water will be sufficient to satisfy the requirements of the case. It will be wise, however, for the Public Vaccinator to be prepared with his own boiled water, preferably freshly boiled. This can be obtained in two minutes by one or other of the forms of apparatus prepared by the instrument-makers.

Smutty kettles and greasy porringers are not the handmaids of aseptic vaccination, and the Public Vaccinator with his own boiled water is ready for any emergency. Should an antiseptic soap be desired, some form of carbolic soap may be used. It is necessary, however, to wash off the excess of carbolic with plain boiled water, and then dry, the three operations being performed with little pledgets of cotton or wood wool, or tow, which can be obtained in small packets or rolls, and thrown on the fire after use. Instead of washing with an antiseptic soap, it is open to wash the arm with alcohol, or with boric acid, salicylic acid, carbolic acid, chinosol, or lysol, in form of lotion. Corrosive sublimate must be used very dilute on account of its powerful inhibitory effect on the growth of organisms and the difficulty of washing it off the arm. In all these cases it will be wise to wash off the antiseptic with boiled water, so as to avoid the destruction of the lymph activity.

5. *Lancets or other Instruments.* — In glycerinated calf lymph vaccination, the blunted lancet, or needle, will probably be found the type of instrument most successful in its results.

Sterilization may be by—

(1) *Flame*, which destroys the temper of the steel. This may be delayed by dipping the blade in alcohol, and then passing it through the flame, so as to burn off the alcohol. The undoubted advantage of the flame, especially when large numbers have to be dealt with, makes the introduction of the platinum iridium knife, by Messrs. Down, a very valuable adjunct to vaccination. This will bear passing through the flame, although it will not stand boiling in alkaline solutions.

(2) *Boiling.*—This for steel instruments should be in 2 per cent. sodium borate or bicarbonate solution, so as to obviate rust. Repeated boiling

gradually destroys the temper of the steel. In dealing with large numbers, as in epidemics, the vaccinostyle or pen vaccinator, largely used in French vaccination, is useful, as one pen after another can be thrown into water kept boiling, and thus sterilized. The instrument should be wiped with a piece of cotton-wool or lint before being sterilized.

6. *The lymph* is to be issued in tubes containing enough for one vaccination only. As many as are required will be obtainable by applying to the National Vaccine Establishment, St. Stephen's House, Cannon Row, Westminster, S.W.

7. The emptying of the tubes must be performed with one or other of the various ejectors provided by the instrument-makers, or, failing these, an ordinary fountain-pen filler, with a little fine rubber tubing, such as is used for Southey's drainage tubes, can be made to serve the purpose.

8. The lymph is placed on the arm in the usual manner, and the vaccination performed through the droplet of glycerinated lymph, which thus covers the scarifications, and protects the scratches from the air. The flat of the blade or the spatula end of the instrument is then used to gently press the lymph into the lymph spaces with a circular movement.

9. As glycerine is hygroscopic, the places of insertion will not dry so rapidly as in arm-to-arm vaccination. It is, however, necessary to protect the arm from extraneous infection, and it is wise, therefore, to cover the vaccinated surface with some form of dressing without delay. Here will be the greatest difference of opinion and treatment.

There are three methods which may be adopted :

- (1) The antiseptic tissue or film method ;
- (2) The aseptic pad method ;
- (3) The antiseptic pad method.

In France there is very largely used what is known as the '*Tuffetas Marinier*,' a thin, almost transparent film, impregnated with a weak antiseptic and adhesive on one side. A similar application is obtainable in England, from Mr. John Hick, chemist, 2, Queen's Terrace, St. John's Wood, N.W., ready cut in squares, which should be clipped at the edges so as to allow of their readily adapting themselves to the curves of the arm. On running a ring of moisture, with a brush of cotton-wool, round the area of vaccination, and placing the film over it, it adheres to the skin at the margin, allowing the development of the vesicles, and giving opportunity of seeing them throughout. On the eighth day the film can be removed, if necessary, and another substituted. In place of this, *collodion* may be brushed over each insertion.

The aseptic pad may be placed directly over the arm immediately after vaccinating. It consists of a kind of Gamgee tissue, sterilized by steam under pressure, and sent out in a little aseptic bag, with a gauze sponge for washing the arm. It is made by Messrs. Down.

The antiseptic pad must be used carefully, or it will destroy the vaccine, as well as excluding septic organisms.

If any such antiseptic pad be used, it may be necessary to protect the vaccinated points from the immediate action of the antiseptic by the interposition of four little wafers of isinglass plaster, or by a film as described above, or by a piece of aseptic gauze or lint.

A very convenient form of pad for use in protecting the arm is the ordinary eye compress. This can be impregnated with boric acid or not, as desired.

Two methods of affixing pads are open to us: one by tapes, one pair running from the top of the pad round the chest and tying in the opposite axilla, the others passed round the vaccinated arm, and tied over the pad. The second method is by the use of tape plaster, about $\frac{3}{8}$ inch wide, two or three strips crossing the pad in various directions, so as to fix it in position. Bandages are out of the question.

One or other of the above methods, or various combinations of them, will probably satisfy the requirements of all ordinary cases.

The use of boric gelatine, which has been recommended by some, is likely to be too elaborate for employment in public vaccination.

On the visit of inspection a similar dressing may be applied, or a little box of boric acid powder, or zinc, starch and boric acid, may with advantage be left with the parent for use in dusting over the arm.

10. 'Any *vaccination equipment*' must be looked at from the point of view of—

1. Completeness and Efficiency ;
2. Convenience and Portability.

Its efficiency must be estimated with reference to completeness of provision for asepsis, and suitability for use in epidemic as well as non-epidemic times.

It is in the highest degree desirable that the Public Vaccinator should not be dependent upon the persons to whom he goes to offer vaccination for any article he can conveniently bring with him in a moderate-sized bag. Thus, there are decided advantages in being furnished with his own soap, towel, apparatus for boiling water, and vessels to contain such water or lotions as he may require.

INDEX

- ABSENCE** — District Medical Officer should have a recognised deputy, 14
 Notice to be given to Board, 14
- Accident** — In case of accidents threatening life, not necessary for District Medical Officer to consult another registered practitioner before amputating, 16
- Accommodation** — In workhouses Medical Officer to report as to sufficiency, 22
- Accounts**—To be sent to Guardians by District Medical Officer for vaccinations where small-pox is present in pauper patient's house, 39
 For quarterly visits to pauper lunatics, 21, 63
- Acts of Parliament** — 43 Eliz., c. 2 (1601), 11
 3-5, Will. IV., c. 176 (Poor Law Amendment Act), 12
 10-11 Vict., c. 109 (1847), 12
 34-35 Vict., c. 70, 12
 23-24 Vict., c. 77, s. 14, 18
 18-19 Vict., c. 116, s. 12, 18
 53 Vict., c. 5, 21
 59-60 Vict., c. 50 (Poor Law Officers' Superannuation Act), 28
 61-62 Vict., c. 49 (Vaccination Act, 1898), 33, 41
 30-31 Vict., c. 84 (Vaccination Act, 1867), 33
 34-35 Vict., c. 98 (Vaccination Act, 1871), 39
- Acts of Guardians**—Numbers at meetings to give validity to, 13
- Admission of pauper to Workhouse**—Examination by Workhouse Medical Officer before, 22
- Advertisement** before election of Medical Officer, 13
- Agreement** as to fees — For attendance in midwifery cases, 17
- Amputations** — Consultations to be had before, 16
 Fees payable for, 16
- Annual Holiday** for Poor Law Medical Officers, 59
- Anti-vaccinators**, opposition of to Vaccination Acts, 40
- Appointment** — Of District Medical Officer, 13
 Of Workhouse Medical Officer; 13
 Of Public Vaccinator, 33, 34
- Area**—Of districts to be assigned to Medical Officer, 13, 14
- Arrangements for Public Vaccination** — Under Act of 1867, 33
 Under Act of 1898, 41, 42
- Assignments**—Of districts to Medical Officers, 13
- Assistants**—To Medical Officers must be recognised by L.G.B., and be assented to by Guardians, 14
- Attendance**—Of Medical Officers on pauper patients, 20
 At dispensary in Metropolitan area, 20
 At meetings of Guardians, when required, 23
- Attendance on patients by the Public Vaccinator** after vaccination, 52
- Benefit Societies** — District Medical Officer must attend on members if required by order of Relieving Officer, 56
- Bramble v. Lowe**, 53
- Central fund**, want of, 29
- Certificate**—May be required of Medical Officer by Guardians concerning pauper patient, 25
 But only for purposes of Guardians, 26
 From Public Vaccinator of successful vaccination, 36
 From Public Vaccinator of postponement of vaccination, 36
 From Public Vaccinator of insusceptibility to vaccination, 36
- Certificate of proficiency in vaccination**, 34

- Certifying Surgeons—District Medical Officers may be required to act as such, 59
- Change—In district must be accepted by Medical Officer if sanctioned by L.G.B., 14
- Childbirth—Fees payable to Medical Officers after, 17
- Children—Medical Officer of Workhouse to give instruction as to diet, 22
 - Not to vaccinate children in workhouse without consent of mother, 22
- Classification of sick paupers—Workhouse Medical Officer to give directions as to, 23
- Cod-liver oil—To be supplied by Guardians, 20
- Compound fracture—Fee payable for attendance to, 16
- Consent of L.G.B. — Necessary for appointment of Medical Officer, 13
 - Necessary for his suspension, 26
 - Necessary for his dismissal, 26
 - Necessary before altering his district, 14
 - Necessary to appointment of deputy, 14
 - Necessary to increase or diminution of salary of Medical Officer, 16
 - Necessary to appointment of Public Vaccinator, and fixing of their fees, 43-45
- Contract — District Medical Officer should sign, 56
 - With Public Vaccinator, 44
 - Form of, with Public Vaccinator, 64
 - Form of, with Workhouse Medical Officer, 69
 - Instructions for Vaccinators under, 46-49
- Coroners' inquests—In Workhouses, when necessary, 24
- Dangerous—District Medical Officer to report lunatics, 56
- Deduction from salary under Superannuation Act, 28
- Detention of lunatic in Workhouse more than fourteen days, 61
- Dietary—Of sick paupers in Workhouse to be fixed by Medical Officer, 23
- Disagreement frequent with Guardians, 27
- Diseases, infectious—Notification of, 25
- Dismissal—Of District Medical Officer, 26
 - Of Workhouse Medical Officer, 26
- Dispensaries—In Metropolis, 20
- District Medical Officer — Appointment, 14
 - Suspension, 26
 - Dismissal, 26
 - Assignment of district, 13
 - Alteration of district, 14
 - Where non-resident, 15
 - Amputations not to be done without consultations, 16
 - Attendance on paupers in district, 19
 - What dental surgery necessary, 19
 - Extra payments for operations, 16
 - Extra payments for childbirth, 17
 - Must reside in district, 14
 - Must supply medicines, except in Metropolitan area, 20
 - Where he may vaccinate at expense of Guardians, 19, 39
 - Must keep a register of paupers attended, 57
 - Lists of permanent paupers may be given, 21
 - Outbreak of contagious diseases to be notified, 25
 - Order for attendance to be given by Relieving Officer, 19
 - Regulations under Public Health Act, 21, 22
 - Visitation of pauper lunatics, 21
 - Residence in district may be dispensed with in Metropolis, 15
 - Return of sickness and deaths to be given to the Medical Officer of Health, 25
- Districts—Of Medical Officer : Guardians may change with consent of L.G.B., 14
- Drugs—Supplied by Guardians in Metropolitan area, 19
- Duration—Of medical appointments, 26
- Duties—Of District Medical Officer, 19
 - Of Workhouse Medical Officer, 22
 - Of Public Vaccinator, 43
- Eastbourne Magistrates v. Guardians —Decision of Judge Martineau, 54
- Election—Of District Medical Officer, 13
 - Of Workhouse Medical Officer, 13
 - Of Public Vaccinator, 33, 44
- Emergency—Appointment of Medical Officers in, 59
- Extra Charges—Of District Medical Officers, 17

- Extra Charges**—Of Workhouse Medical Officers, 17
- Fees**—District Medical Officer's, for operations, 16
 District Medical Officer's, and Workhouse Officer's, for mid-wifery cases, 17
 District Medical Officer's, for visiting pauper lunatics, 21
 District Medical Officer's, for vaccination, where small-pox is prevalent in pauper's house, 39
 District Medical Officer's, for visiting children boarded out by Guardians, 56
- Form**—Of Contract for Public Vaccinator, 64
 Of vaccination contract of Workhouse Medical Officer, 69
- Fracture**—Fees for treatment of, by District Medical Officer, 16
- Friendly Societies**—Members of to be attended by District Medical Officer, on order by Relieving Officer, 56
- General Orders of L.G.B.** — July 24, 1847, 12
 May 25, 1857, 14
 September 10, 1877, 56
 July 14, 1880, 15
 April 12, 1865, 20
 April 22, 1871, 20
 April 4, 1868, 23
 August 24, 1869, 23
 November 3, 1900, 24
 February 12, 1879, 25
 June 24, 1872, 24
 February 28, 1887, 46
- Guardians** — Medical Officers must attend meetings of, if required, 26
 May call in an outside doctor, 57
- Haigh v. N. Burley**, 57
- Health, Medical Officer of**—District Medical Officer may be required to assist, 21
- Hernia strangulated** — Fee for operation by District Medical Officer, 16
- Infants**—Diet of to be laid down by Workhouse Medical Officer, 22
- Information**—To be given Coroner by Workhouse Medical Officer, 24
 As to deaths of lunatics in Workhouse, 24
- Inoculation** a punishable offence, 38
- Instructions**—To Vaccinators under contract, 46
- Limitations**—As to area of district of District Medical Officer, 13
 As to detention of dangerous lunatics in Workhouse, 61
- List**—Of permanent paupers may be given to District Medical Officer by Relieving Officer, 21
- Local Government Board** — When created, 12
 Must sanction appointment of District and Workhouse Medical Officers, 13
 Must sanction dismissal, 26
 Must sanction contract of Public Vaccinator, 34
 Must sanction increase of salaries of officers, 16
 May sanction residence out of district of District Medical Officer, 15
 Sudden and accidental deaths in Workhouse to be reported to, 24
- Lunatics**—Notice to be given to Relieving Officer by District Medical Officer of dangerous, 21
 Quarterly visit and report to be made by District Medical Officer of pauper lunatics residing in his district, 63
 Treatment of in Workhouse, 23, 24
 Mechanical Restraint Register of pauper, 24
- Lymph**—What to be used by Public Vaccinators, 47
 How it may be obtained, 48
 Register must be kept of its source, 48
- Medical appliances**—Included in term 'medicines,' 20
- Medical certificates**—For necessity of amputation, except in urgent cases, 16
 May be required of Medical Officers by Guardians, 26
 To be given by medical practitioners for successful vaccination, to postpone vaccination, or of insusceptibility to vaccination, 36
- Medical Districts**—Area and population of, 13
- Medical Officers of District Schools**—Appointment of, 59
 Duties of, 19
- Metropolitan Dispensaries** — District Medical Officer to attend at, 58
- Medical Officer of Health**—Information as to sickness and deaths of paupers to be given to by District Medical Officer, 25

- Medical Officer, District—Qualification, appointment, 13, 14
 Suspension and dismissal, 26
 Salary of, 16
 Extra fees allowed to, 16-19
 Must reside in district, 14
 Duties of, 19
 Should appoint deputy, 14
- Medical Officer, Workhouse—Appointment, suspension, and dismissal of, 13
 Duties of, 23, 24
 Must examine paupers on admission, 22
 Must attend when sent for by master or matron, 22
 Should not vaccinate without consent of mother of infant, 22
 Must report to Guardians as to sanitary arrangements of Workhouse, diet of inmates, and conduct of nurses, etc., 22
 Must report certain deaths to L.G.B., 23, 24
 Is required to keep a Mechanical Restraint Register, 24
 Must report certain deaths to Coroner, 24
 Must report cases of unsound mind requiring to be sent to an asylum, 22
- Medical orders—By whom may be given, 19
- Medicines—To be supplied by District Medical Officers, 19
 Except in Metropolitan area, 19
- Metropolitan Dispensaries—District Medical Officer to attend at fixed times, and keep a register of cases attended, 57, 58
 Orders of Relieving Officer of two kinds, 58
 'Urgent' to be written on order when immediate attendance is required, 58
- Midwife—Not to be employed by District Medical Officer to attend paupers, 19
- Midwifery fees—To be paid to District Medical Officers, and Workhouse Medical Officers, 17
 Extra fees for forceps, and other complicated cases, 17
- Midwifery orders and Overseer, 56
- Murphy v. Kellett, 58
- Necessaries—Only medical necessities can be ordered by District Medical Officer, but other requirements may be recommended as necessary, 21
- Neglect of pauper patients, 31
- Non-Resident Medical Officers—Tenure of office, 15
- Notice—To be given to Medical Officer of Health of infectious disease among paupers, 25
 By Workhouse Medical Officer of certain deaths to L.G.B., 24
 By Workhouse Medical Officer of certain deaths to Coroner, 24
 To Relieving Officer of dangerous lunatics, 22, 60
 By the Public Vaccinator of his intention to call to offer to vaccinate, 45
- Operations—For which extra fees are paid to District Medical Officer, 16
- Orders—When to be marked 'urgent,' 58
 By whom may be given, 19
 For attendance at dispensary, 58
 For attendance at pauper's home, 19
 When not to be seen on day of presentation, 58
- Overseers—May grant orders for medical attendance, 19, 56
 Not personally liable to doctor for improper orders, 20
- Paupers—When sick to be attended by Medical Officer of district in which they reside, whether chargeable to that union or not, 62
 Required to preserve bottles, etc., given to them to hold medicines, etc., 56
- Poor Law Board—Origin of, 11, 12
- Population—Of medical districts, 14
- Privy Council—Vaccination regulations, 34, 43
- Privilege of Poor Law Officers, 58
- Public Vaccinator—Appointment of, 34
 Not an 'officer' of the Guardians, 50
 Must sign a special contract form, 44
 Must vaccinate at patient's home, 52, 65
 Fees paid to, 44
 Must send notice of his domiciliary visit, 45
 Must keep a register of vaccinations, 46
 Must use glycerinated calf lymph, and be able to trace the same, 47, 48
 Must give certificates in a prescribed form, 37, 47

- Puerperal fever—Extra fee allowed to District Medical Officer for attendance on, 17
- Re-appointment—Of District Medical Officers, 15
- Register — By Workhouse Medical Officer to be kept of cases where mechanical restraint has been employed, 24
By District Medical Officers in Metropolitan area of sickness in books provided by Guardians, 57
By Public Vaccinators of cases of vaccination and re-vaccination, 46
- Registrar of Births and Deaths—Duties of, under Vaccination Acts, 35
- Reid, Sir Robert, opinion of, 76
- Relieving Officer—To give orders for medical attendance, 19
His duty to furnish all necessities except medicines, 21
To decide in first instance as to suitability of case for medical relief, 56
To see to the removal of pauper lunatics, 61
- Relieving Officer—Where pauper cannot fetch his medicine, must see that it is sent to him, 57
- Remuneration—Guardians may pay deputies of Medical Officers under special circumstances, 59
- Resignation—Medical Officers must give a month's notice, 14
- Returns—By District Medical Officer of sickness and cases of infectious disease to the Medical Officer of Health, 25
- Re - Vaccination — Conditions prescribed by L.G.B., 44
- Royal Commission, 1889, 41
- R. v. Smith, 56
- Salaries—Increase of, only with consent of L.G.B., 16
- Schools Medical Officer, 58
- Servants, domestic, must be attended by District Medical Officer, 56
- Ship—District Medical Officers may be required to attend on board ships lying in harbours, 18
- Suggestions arising out of Vaccination Order, 1898 (Dr. Cope), 77
- Superannuation—To claim, must be over sixty years of age, and have served forty years, or be turned sixty-five, and served more than ten, 27, 28
Deductions from salary for, 28
No deductions to be taken from vaccination fees, 50
- Surgical appliances included in requisite medicines, 20
- Suspension—Notice must be given to L.G.B. by the Guardians, 26
L.G.B. may remove suspension, 26
- Sutton v. Plumridge, 57
- Temporary—Guardians may appoint and pay substitutes for officers, 59
- Tenure—Of office by District Medical Officer, 26
Of office by Workhouse Medical Officer, 26
Of office by Public Vaccinator, 50
Of office by Vaccination Officer, 46
- Urgent orders, 58
- Vaccination—History of, 32
Vaccination non-compulsory, 33
Vaccination Officer—Appointment by Guardians, 39
Duties of, 39
Can initiate prosecutions, 53
Must send lists of children to be vaccinated by Public Vaccinator, 45
- Wills v. Smith, 20



